

General Purpose Standing Committee No. 6

Crown land in New South Wales

Ordered to be printed 13 October 2016

New South Wales Parliamentary Library cataloguing-in-publication data:

New South Wales. Parliament. Legislative Council. General Purpose Standing Committee No. 6

Crown land in New South Wales / General Purpose Standing Committee No. 6 [Sydney, N.S.W.] : the Committee, 2016. xiv, 148 pages ; 30 cm. (Report no. 4 / General Purpose Standing Committee No. 6)

“October 2016”

Chair: Hon. Paul Green, MLC.

ISBN 978-1-922258-19-9

1. Crown lands – New South Wales.
2. Crown lands – New South Wales – Management.
3. Public lands – New South Wales.
- I. Green, Paul.
- II. Title.
- III. Series: New South Wales. Parliament. Legislative Council. General Purpose Standing Committee No. 6. Report ; no. 4

333.109944 (DDC22)

Table of contents

	Terms of reference	vi
	Committee details	vii
	Chair's foreword	viii
	Recommendations	x
	Conduct of inquiry	xiii
Chapter 1	Background	1
	The Crown estate	1
	Crown land	1
	Crown land reform process	3
	Crown Lands Management Review	3
	Crown Lands Legislation White Paper	5
	New Crown land legislation	8
	Committee comment	9
Chapter 2	Ownership and management of Crown land	11
	Management of Crown land	11
	Management by trustees	11
	Management under leases or licences	12
	Plans of management	13
	Proposed legislative changes regarding the ownership and management of Crown land	13
	State and Local land	13
	Land to remain in State control	21
	Crown land Managers	22
	Council management of Crown reserves	23
	Land management in the Western Division	24
	Committee comment	25
	Development of plans of management	27
	Alternate model to plans of management	28
	Committee comment	30
	Beneficial commercial activities on Crown land	30
	Committee comment	32

Chapter 3	Access to information on Crown land	35
	Difficulties in identifying Crown land	35
	Staffing in the Department of Industry – Lands	38
	Committee comment	39
Chapter 4	Preservation of Crown land and community consultation	41
	Sale and leasing of Crown land	41
	The preservation of Crown land	41
	Proposed legislative reforms	43
	Committee comment	44
	Community consultation	44
	Meaningful consultation	45
	Local government views on consultation	48
	NSW Government community engagement strategy	50
	Case studies of community concerns – management of Crown land	50
	Reforms to improve governance of Crown land	54
	Auditor-General report findings	55
	Committee comment	56
Chapter 5	Crown roads and travelling stock routes and reserves	59
	Crown roads	59
	Maintaining Crown roads	59
	Roads closure program	60
	Proposed legislative change	62
	Committee comment	64
	Travelling stock routes and reserves	65
	Committee comment	69
Chapter 6	Aboriginal land claims	71
	Background	71
	Current Crown land legislation and proposed changes	72
	Committee comment	73
	Backlog of Aboriginal land claims	73
	Need for prioritisation of land claims	75
	Aboriginal Land Agreements	77
	Aboriginal Land Agreements pilot program	78
	Committee comment	81
	Economically viable land	81
	Committee comment	84

Appendix 1	New Crown land legislation table	87
Appendix 2	Local Land Pilot evaluation	91
Appendix 3	Submissions	106
Appendix 4	Witnesses at hearings	118
Appendix 5	Minutes	124
Appendix 6	Dissenting statement	147

Terms of reference

1. That, notwithstanding the allocation of portfolios to the General Purpose Standing Committees, General Purpose Standing Committee No. 6 inquire into and report on Crown land in New South Wales, and in particular:
 - (a) the extent of Crown land and the benefits of active use and management of that land to New South Wales,
 - (b) the adequacy of community input and consultation regarding the commercial use and disposal of Crown land,
 - (c) the most appropriate and effective measures for protecting Crown land so that it is preserved and enhanced for future generations, and
 - (d) the extent of Aboriginal Land Claims over Crown land and opportunities to increase Aboriginal involvement in the management of Crown land.
2. That the committee report by 13 October 2016.

The terms of reference were referred to the committee by the Legislative Council on 23 June 2016.¹

¹ *Minutes*, NSW Legislative Council, 23 June 2016, pp 986-987.

Committee details

Committee members

The Hon Paul Green MLC	Christian Democratic Party	<i>Chair</i>
The Hon Lou Amato MLC	Liberal Party	<i>Deputy Chair</i>
The Hon Catherine Cusack MLC	Liberal Party	
The Hon Peter Primrose MLC *	Australian Labor Party	
Mr David Shoebridge MLC	The Greens	
The Hon Bronnie Taylor MLC**	The Nationals	
The Hon Mick Veitch MLC*	Australian Labor Party	

Contact details

Website	www.parliament.nsw.gov.au/gpsc6
Email	gpsc6@parliament.nsw.gov.au
Telephone	(02) 9230 2898

* The Hon Peter Primrose MLC and the Hon Mick Veitch MLC replaced the Hon David Mookhey MLC and the Hon Ernest Wong MLC as members of the committee for the duration of the inquiry.

** The Hon Bronnie Taylor MLC replaced the Hon Scott Farlow MLC as a member of the committee on 9 September 2016.

Chair's foreword

I am very pleased to present the report of General Purpose Standing Committee No. 6 into Crown land in New South Wales.

My intention during this inquiry was to listen to the community and understand their expectations in relation to Crown land use and its management. I endorse this report and its recommendations which seek to create a Crown land management system for the 21st century which is accountable to the people and puts checks and balances into place to consider the economic, social, cultural and environmental factors that must be taken into consideration.

The Crown estate comprises 42 per cent of New South Wales and there are approximately 53,000 tenures granted over Crown land for a variety of private and community purposes. Commercial activity on Crown land has always been important to the State. Since colonial times, our economy has been facilitated through the sale, leasing and licensing of Crown land and proceeds generated from these activities has been a key lever for governments to fund infrastructure projects and provide programs and jobs to benefit the people of New South Wales. In the 2014-15 financial year alone, 40 parcels of Crown Land were sold, returning \$5.2 million to the State.

The NSW Government has been working for a number of years on amending Crown land legislation as it has become outdated and does not reflect the contemporary and changing needs of our communities. For instance, some legislation dates back to the 1890s, and the last major reform of Crown land was over 25 years ago. The State's objectives and the needs and expectations of the community have changed markedly since then.

I am supportive of the NSW Government's current reform process to streamline Crown lands legislation and reduce red tape. I am also cautiously optimistic of the government's proposal to vest Crown land to local government on a voluntary basis so that land can be managed locally in line with the interests of the local community. However, the government should be mindful that this should not become a cost shifting exercise and must recompense local councils for taking on the responsibility of owning and managing Crown land as Local land.

During this inquiry it became apparent that the community highly values the social, cultural and environmental importance of Crown land, while the NSW Government has tended to focus more on economic outcomes. I am pleased that new legislation will include governance provisions to recognise that managers of Crown land reserves are stewards of that land and that their care, use, control and management powers need to be exercised appropriately to ensure land is preserved and enhanced for future generations.

The community needs to be meaningfully consulted on Crown land decisions. Consultation cannot merely be a PR exercise. It must be genuine and it must be fulsome. In turn, sections of the community must understand that sometimes decisions will not be made in their favour. This does not mean there has been a lack of meaningful consultation; it might merely mean that only a small vocal minority in the community are against a decision that may bring broader benefits to that community.

However, it is unreasonable that Crown land legislation contains weaker consultation practices than local government legislation for plans of management. In addition, due to the diversity in the size, parcels and uses of Crown land there cannot be a one-size-fits-all approach to its management. For this

reason I support new Crown land legislation including consultation methods based on provisions in the *Local Government Act*, and outlining model plans of management for different classes of land.

Our society has entered the digital age and the public has a right to access information on Crown land electronically, in a timely manner. The Department of Industry – Lands needs to take urgent steps to ensure it can provide accurate online information to the public regarding Crown land. This may include the department undertaking a stocktake of Crown land before completing a digitisation project to make the information available to the public online.

It also became evident during the inquiry that the traditional custodians of the land are not adequately consulted on important Crown land decisions by the NSW Government. To date they have not been a part of the Local land pilot program and, more generally, they are often not consulted on local environmental plans which contain the ultimate control of land through zoning. This means that lands transferred back to Aboriginal people under land claims are often padlocked by environmental zoning, making it difficult to manage the land for an economic benefit. To alleviate Aboriginal disadvantage and support economic development it is of vital importance that a process be introduced to allow land granted under Aboriginal land claims to be used for economic, social or cultural opportunities. Aboriginal people need a leading seat at the table and be in control of cultivating economically viable land.

On behalf of the committee, I express our gratitude to all who participated in the inquiry, including those organisations and individuals who appeared at public hearings and wrote submissions. Your passion and dedication for Crown land is an invaluable service to your community. This report provides information to the community and recommendations to government that aim to assist the public in gaining confidence in the future management of Crown land in New South Wales.

I also thank my committee colleagues for their work and commitment to this inquiry, as well as the secretariat staff for their work in supporting the committee.

A handwritten signature in blue ink, appearing to read 'Paul Green', with a long horizontal flourish extending to the right.

The Hon Paul Green MLC
Committee Chair

Recommendations

- Recommendation 1** 25
That the NSW Government consider additional legislative protections to ensure Local land is retained as public land and managed in the public interest.
- Recommendation 2** 25
That the Department of Industry – Lands prepare a strategic plan, in consultation with local governments, that establishes how Crown land will be effectively managed, maintained and resourced under the new Crown land legislative framework.
- Recommendation 3** 26
That the NSW Government include a provision in new Crown land legislation for the appointment of a Crown Lands Commissioner to oversee the implementation and management of new Crown land legislation.
- Recommendation 4** 26
That the NSW Government develop a proposal to be included in new Crown land legislation that will recompense local councils for owning and managing Crown land as Local land, including transferring to local government equitable access to funds from any money generating capabilities on the land, such as telecommunication towers.
- Recommendation 5** 27
That the NSW Government include a provision in new Crown land legislation for showgrounds, travelling stock routes and reserves and Scout/Girl Guide halls to be classified as State land.
- Recommendation 6** 30
That the NSW Government include in new Crown land legislation consultation methods based upon plans of management that currently operate in the *Local Government Act 1993*, including model plans of management for different classes of land.
- Recommendation 7** 32
That the Department of Industry – Lands develop guidelines to ensure that plans of management and leases on Crown land are flexible enough to allow for small community-oriented commercial activities (for example pop-up diners or coffee vans) to operate for the benefit of both the community and the manager or lessor of the land.
- Recommendation 8** 33
That the NSW Government consider introducing a shared equity scheme for affordable housing on Crown land.
- Recommendation 9** 39
That the Department of Industry – Lands undertake a stocktake of all Crown land in New South Wales before any land is transferred to local government as Local land under proposed new Crown land legislation.
- Recommendation 10** 39
That the Department of Industry – Lands undertake a digitisation project of maps identifying Crown land in New South Wales and publicly release an accurate register of Crown land.

- Recommendation 11** 44
That the NSW Government, when implementing the stocktake of Crown land in New South Wales at recommendation 9, must consider an audit of its ecological value including its local, regional and state environmental significance.
- Recommendation 12** 57
That the Department of Industry – Lands report to General Purpose Standing Committee No. 6 in March, July and December 2017 regarding the implementation of recommendations made by the Auditor-General in the report entitled ‘Sale and lease of Crown land’, published 8 September 2016.
- Recommendation 13** 57
That the Department of Industry – Lands explore the feasibility of including an appeals mechanism, adjudicated by an independent arbiter, for decisions regarding Crown land plans of management, sales and leases.
- Recommendation 14** 65
That the Minister for Lands and Water increase staffing levels for the Crown roads disposal program, increase the minimum time for publication of the proposal to dispose of Crown roads and consider methods to widen the scope of public notification so that a broader group of interested stakeholders are made aware of proposed land sales.
- Recommendation 15** 65
That the Minister for Lands and Water ensure that Crown roads will only be transferred as Local land on a voluntary basis to local government once the Department of Industry – Lands has reduced the current backlog of closure applications to a manageable level.
- Recommendation 16** 69
That the Minister for Lands and Water increase the funding for the Local Land Services and amend its governance structure to allow input from drovers and graziers at board level.
- Recommendation 17** 69
That the Minister for Lands and Water:
- ensure that the Local Land Services adopt consistent State-wide policies and practices regarding travelling stock routes and reserves
 - amend the Local Land Services permit process for drovers and graziers accessing travelling stock routes to introduce a one-stop-shop, which provides an annual permit and an ability to pay online
 - amend the Local Land Services licencing process for beekeepers on travelling stock reserves to introduce a one-stop-shop, with uniform State-wide fees, and consider issuing licences for more than one year
 - introduce a Local Land Services ranger internship program where all rangers must complete training with drovers and graziers.
- Recommendation 18** 73
That the NSW Government ensure the new Crown land legislation recognises the fact of prior and continuing Aboriginal custodianship of Crown land and operates together with the *Aboriginal Land Rights Act 1983*.

Recommendation 19

81

That the Department of Industry – Lands prioritise the conduct and completion of the Aboriginal Land Agreements pilot program in the local government areas of Federation Council, Northern Beaches Council, Tamworth Regional Council and Tweed Shire Council, with an evaluation of the pilot to be made publicly available by the end of 2017.

Recommendation 20

84

That the Minister for Lands and Water develop a policy to prioritise Aboriginal land claims for economically viable land.

Conduct of inquiry

The terms of reference for the inquiry were referred to the committee by the Legislative Council on 23 June 2016.

The committee received 354 submissions,² nine supplementary submissions and two pro forma submissions (see Appendix 3 for a list of submission authors).

The committee held seven public hearings: two at Parliament House in Sydney and one each in Shoalhaven, Dubbo, Ballina, Newcastle and Gosford (see Appendix 4 for a list of witnesses who gave evidence at the public hearings).

Inquiry related documents are available on the committee's website, including submissions, hearing transcripts, tabled documents and answers to questions on notice.

² The number of submissions received is different to the total number listed in Appendix 3 and on the committee's website, due to a duplication of submissions.

Chapter 1 Background

This chapter provides a background to Crown land in New South Wales and outlines the recent review process by providing a synopsis of the Crown Lands Management Review, Crown Lands Legislation White Paper and the proposed NSW Government reforms.

The Crown estate

- 1.1 The Crown estate comprises 42 per cent of New South Wales and is made up of national parks (around 7 million hectares), State forests (over 2 million hectares), and Crown land (around 34 million hectares).³

Crown land

- 1.2 Crown land is owned and managed by the State government for the people of New South Wales and has a total value of \$11 billion.⁴
- 1.3 Crown land can be classified as either 'land that has been set aside for a public purpose (known as a Crown reserve) or land that has been leased or licensed to a third party (known as tenured Crown land).⁵
- 1.4 New South Wales Crown land includes parks, beaches, waterways, and sports grounds, and 'is home to local clubs, community halls, showgrounds, racecourses, holiday parks, golf courses, farms, access roads and grazing paddocks'.⁶ Crown land should not be confused with community land which is owned and operated by local government under the *Local Government Act 1993*.⁷
- 1.5 The majority (96 per cent) of Crown land is located in Western New South Wales while the remaining four per cent is made up of roads, reserves and land as well as rivers, estuaries, beaches and the seabed to three nautical miles from the coast.⁸

³ Submission 128, NSW Government, p 3; General Purpose Standing Committee No. 5, NSW Legislative Council, Management of public land in New South Wales (2013), pp 7-10.

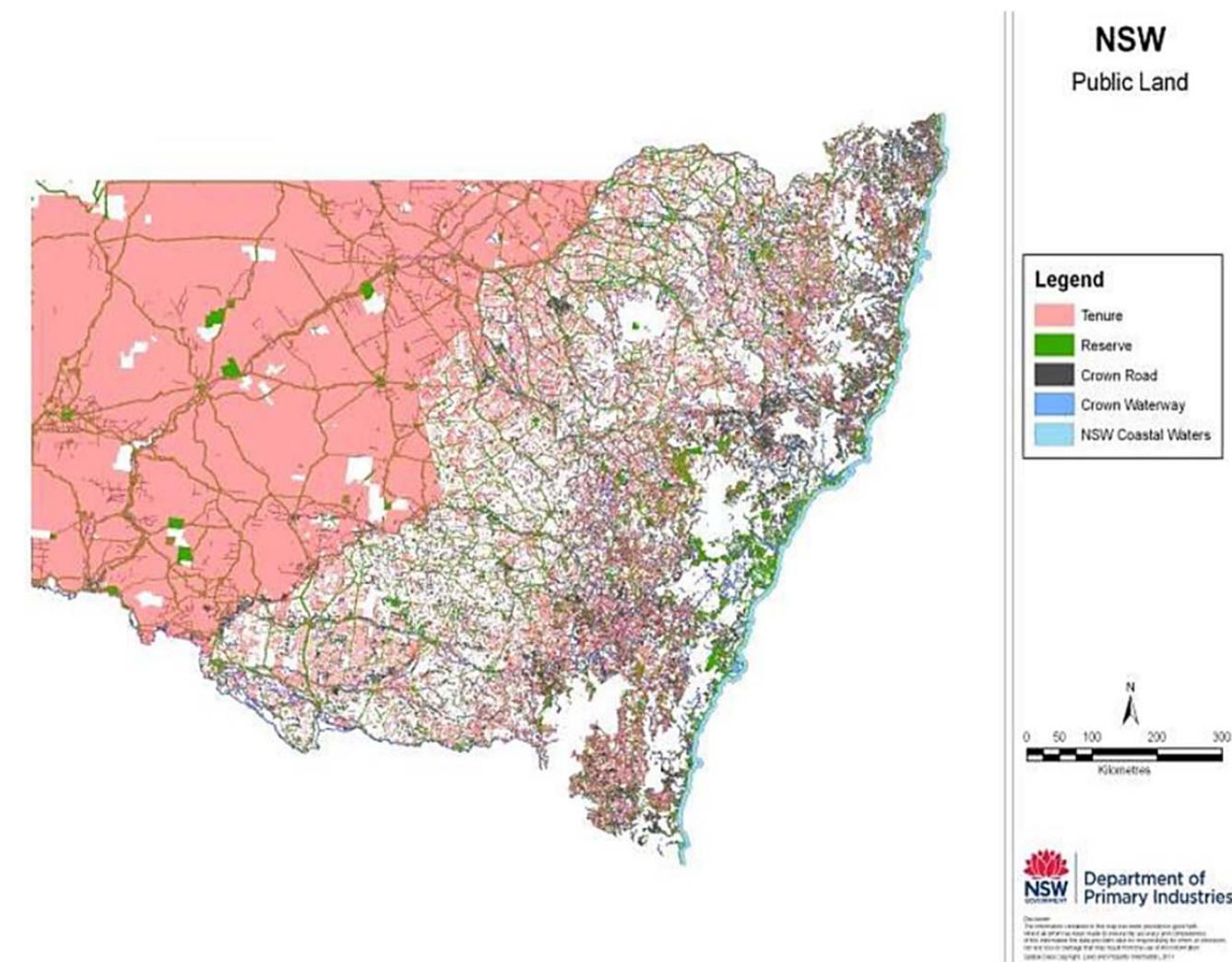
⁴ Submission 128, NSW Government, p 3.

⁵ Submission 128, NSW Government, p 6.

⁶ NSW Trade and Investment, Crown Lands for the Future, 2014, p 3.

⁷ Submission 128, NSW Government, p 3.

⁸ Submission 128, NSW Government, p 5.

Figure 1 Map of Crown land in New South Wales⁹

1.6 There are three main acts under which Crown land is managed: *Crown Lands Act 1989*, *Crown Lands (Continued Tenures) Act 1989* and *Western Lands Act 1901*. These three acts are supported by five other pieces of legislation relevant to Crown land and managed by the Department of Industry - Lands:

- *Commons Management Act 1989*
- *Trustees of Schools of Arts Enabling Act 1902*
- *Public Reserves Management Fund Act 1987*
- *Wentworth Irrigation Act 1890*
- *Hay Irrigation Act 1902*.

⁹ Submission 128, NSW Government, p 6.

1.7 Inquiry participants agreed that Crown land is an important public asset, with the NSW Government noting the following four key benefits regarding its active use:

- **Social benefits** – Crown land contributes to the social fabric of the State. It makes up some of the best known recreational spaces in New South Wales, such as Sydney’s Hyde Park and most beaches. Crown reserves are home to hundreds of community facilities, including showgrounds, racecourses, sporting grounds and surf lifesaving clubs, and are managed by an army of community-minded volunteers.
- **Cultural benefits** – Access to Crown land, including Travelling Stock Reserves, enables Aboriginal people to maintain connections to Country. It provides opportunities for Aboriginal people to undertake cultural practices including culture camps, hunting, fishing and gathering bush foods and bush medicines. Crown land also contains numerous historic heritage places, including heritage showgrounds and historic houses and sites.
- **Economic benefits** – Crown land provides a direct economic return to the NSW Government through rents, licensing fees and the proceeds of land sales. Some proceeds from rents collected from leases and licences on Crown land are directed into the Public Reserve Management Fund to support management of the rest of the Crown estate. Crown land is also an engine room for economic activity, including in the agricultural, tourism and hospitality sectors.
- **Environmental benefits** – The Crown land estate contains areas of high environmental values, including significant remnants of relatively undisturbed natural landscapes in rural, coastal and urban areas, and key habitat for threatened species and populations.¹⁰

Crown land reform process

1.8 The last major reform of Crown land was held some 25 years ago, and the NSW Government considered that the State’s ‘objectives and the needs of the community have changed markedly’ since that time. The NSW Government therefore organised a review of the management of Crown land to address these changing needs.¹¹

Crown Lands Management Review

1.9 In 2012, an inter-agency Steering Committee led by independent chair, Mr Michael Carapiet, conducted the Crown Lands Management Review.¹² The review’s terms of reference were to identify and recommend:

- key public benefits (social, environmental and economic) derived from Crown land
- the NSW Government’s future role in the management and stewardship of Crown land
- the basis of an appropriate return on the Crown estate, including opportunities to enhance revenue

¹⁰ Submission 128, NSW Government, p 8.

¹¹ NSW Trade and Investment, Crown Lands Management Review, 2014, p iv.

¹² The review is available at: http://www.crownland.nsw.gov.au/__data/assets/pdf_file/0010/652492/Crown_lands_Management_Review_accessible.pdf.

- business, financial and governance structures that enable achievement of desired outcomes within financial and resource constraints
- opportunities for efficiency improvement and cost reduction, consistent with red tape reduction objectives and accountability
- introduction by NSW Government of incentives to enable the Crown Lands Division to manage and develop the Crown estate in line with NSW Government objectives, and
- a contemporary legislative framework.¹³

1.10 A key recommendation of the Crown Lands Management Review was that Crown land be classified in one of two ways:

- State land (for Government purposes)
- Local land (holds local value and is needed for local purposes).¹⁴

1.11 It proposed that the management and ownership of Local land be transferred to local councils so that local interests and needs could be met. This would also allow for Local land to be managed under local government legislation.¹⁵ The review recommended that a pilot program be conducted to ‘test and refine the State and Local land criteria and to develop an implementation plan for the transfer of Local land’.¹⁶ This will be examined further in Chapter 2.

1.12 According to the Steering Committee the three main Acts relevant to Crown land are ‘outdated, complex and unnecessarily onerous ... [and] result in inefficiencies, unnecessary requirements and lack of clarity for stakeholders and the NSW Government’.¹⁷ It also suggested the five supporting acts be repealed.¹⁸ As a result the Steering Committee recommended that a new consolidated Act be established that incorporates all relevant provisions from all eight acts.¹⁹

1.13 The Crown Lands Management Review made 36 recommendations to the NSW Government regarding State and Local land, management of Crown reserves, travelling stock reserves, Western Lands, red tape, modernised legislation, Crown land valuation and dividends, accounting issues, proposed business model and the release of a White Paper to facilitate public consultation about the proposed legislative changes.²⁰

¹³ NSW Trade and Investment, Crown Lands Management Review, 2014, pp vii-viii.

¹⁴ NSW Trade and Investment, Crown Lands Management Review, 2014, pp 4 .

¹⁵ NSW Trade and Investment, Crown Lands Management Review, 2014, p 10.

¹⁶ NSW Trade and Investment, Crown Lands Management Review, 2014, p ix.

¹⁷ NSW Trade and Investment, Crown Lands Management Review, 2014, p 31.

¹⁸ NSW Trade and Investment, Crown Lands Management Review, 2014, pp 31-35.

¹⁹ NSW Trade and Investment, Crown Lands Legislation White Paper, 2014, pp 3-4.

²⁰ NSW Trade and Investment, Crown Lands Management Review, 2014, pp ix-x.

New South Wales Government response to Crown Lands Management Review

- 1.14** In 2014 the NSW Government responded to the Crown Lands Management Review.²¹ Of the 36 recommendations, 16 were supported outright and 19 were supported in principle. Only one recommendation regarding the removal of the option to dedicate Crown land in the future was not supported.²²
- 1.15** The Hon Andrew Stoner, the then Minister for Trade and Investment, noted that Crown land legislation, which dated back to 1890, was outdated and did not reflect the contemporary and changing needs of communities.²³ The government response asserted that the current condition of Crown land management practices ‘impede[s] decision-making and optimal outcomes for the people of New South Wales’.²⁴
- 1.16** For this reason, the NSW Government supported a stocktake of the Crown estate to determine the future management responsibilities of government departments and agencies for land significant to the State.²⁵ It also supported in principle the classification of land as State or Local and the proposed pilot program for the implementation of the transfer of Local land.²⁶
- 1.17** Recommendations for improved governance arrangements of Crown reserves were supported in principle, namely the proposal to move from a three tier to two tier system of reserve management structure, thereby removing reserve trusts and providing local councils with the opportunity to manage reserves under the *Local Government Act 1993*.²⁷
- 1.18** The government supported the release of a White Paper for consultation on the proposed legislative changes to be actioned immediately by the then Crown Lands Division.²⁸

Crown Lands Legislation White Paper

- 1.19** The Crown Lands Legislation White Paper, released in March 2014, outlined the proposed legislative changes to support Crown land management.²⁹ According to the then Minister, legislative reform would allow for the streamlining of existing legislation and remove duplication and red tape, thereby making it easier and simpler to understand and access.³⁰
- 1.20** For the purposes of the White Paper the following were considered:

²¹ The government response is available at: http://www.crownland.nsw.gov.au/__data/assets/pdf_file/0003/652494/Crown_Lands_for_the_Future_accessible.pdf.

²² NSW Trade and Investment, *Crown Lands for the Future*, 2014, p 13.

²³ NSW Trade and Investment, *Crown Lands for the Future*, 2014, p 3.

²⁴ NSW Trade and Investment, *Crown Lands for the Future*, 2014, p 5.

²⁵ NSW Trade and Investment, *Crown Lands for the Future*, 2014, p 6.

²⁶ NSW Trade and Investment, *Crown Lands for the Future*, 2014, p 6.

²⁷ NSW Trade and Investment, *Crown Lands for the Future*, 2014, p 11.

²⁸ NSW Trade and Investment, *Crown Lands for the Future*, 2014, p 13.

²⁹ The White Paper is available at: http://www.crownland.nsw.gov.au/crown_land/comprehensive_review_of_nsw_crown_land_management/crown_land_legislation_white_paper.

³⁰ NSW Trade and Investment, *Crown Lands Legislation White Paper*, 2014, p iii.

- Crown land held under lease, licence or permit
- Crown reserves managed by local councils and community trusts
- Crown land retained in public ownership for environmental purposes
- land within the Crown public roads network
- many non-tidal waterways and most tidal waterways, and
- other unallocated Crown land.³¹

1.21 The White Paper submitted that legislative change would lead to greater use of Crown land by the public, effective management and protection of Crown land, streamlined decision-making at the local level, and a reduction in red tape and transaction costs.³²

1.22 A key recommendation of the Crown Lands Management Review, supported in the White Paper, was the establishment of a new consolidated piece of legislation that would replace the eight Crown land related acts currently in use. The proposed new legislation would ‘apply to all land currently administered under the *Crown Lands Act*, the *Continued Tenures Act* and the *Western Lands Act*’.³³

1.23 It would also allow for the repeal of several other acts no longer necessary – the *Wagga Wagga Racecourse Act 1993*, *Hawkesbury Racecourse Act 1996*, *Orange Show Ground Act 1897*, *Irrigation Areas (Reduction of Rents) Act 1974*, and *Murrumbidgee Irrigation Areas Occupiers Relief Act 1934*.³⁴

1.24 Other new measures for the management of Crown land explored in the White Paper included:

- simplifying land ownership and streamlining processes for development applications and proposed uses of Crown land
- better provisions for tenures and rents
- greater flexibility for Western Lands leases, particularly the conversion of grazing leases to freehold
- stronger enforcement provisions concerning compliance issues, and offences and penalties.³⁵

New South Wales Government response to White Paper

1.25 In October 2015 the NSW Government released its response to the Crown Lands Legislation White Paper which contained a summary of issues raised in public submissions to the White Paper.³⁶

³¹ NSW Trade and Investment, Crown Lands Legislation White Paper, 2014, p 3.

³² NSW Trade and Investment, Crown Lands Legislation White Paper, 2014, pp 5-6.

³³ NSW Trade and Investment, Crown Lands Legislation White Paper, 2014, p 10.

³⁴ NSW Trade and Investment, Crown Lands Legislation White Paper, 2014, p 4.

³⁵ NSW Trade and Investment, Crown Lands Legislation White Paper, 2014, pp 17-32.

³⁶ The Government response to the White Paper is available at: http://www.crownland.nsw.gov.au/__data/assets/pdf_file/0008/653138/response-to-crown-lands-legislation-white-paper.pdf.

- 1.26** The Crown Lands Legislation White Paper received 626 submissions from a wide range of respondents with the majority coming from community members (37.9 per cent); followed by local councils (13.9 per cent); local organisations (9.1 per cent); and environmental groups (6.6 per cent).³⁷
- 1.27** Many respondents showed support for a number of the proposals in the White Paper and the previous Crown Lands Management Review, particularly regarding what the new legislation should incorporate including:
- a two tier management structure for Crown reserves
 - management of Crown land under the *Local Government Act 1993*
 - an increased enforcement and compliance provisions
 - the removal of red tape
 - an improved community involvement and consultation
 - an increased flexibility for Western Lands tenures and consistent lease terms.³⁸
- 1.28** However, a number of key concerns were raised including:
- ensuring reforms would not affect the availability of Crown land for claims under the *Aboriginal Land Rights Act 1983*
 - the transfer process of management and ownership of Crown land to councils
 - that purchase prices for Western Land lessees may be too high, and
 - the sale of Crown land and bias towards revenue growth.³⁹
- 1.29** Community concerns about the then Department for Trade and Investment's decision not to publish online or publicly release any of the 626 submissions made to the White Paper was brought to the attention of the committee.⁴⁰ While the NSW Government's response to the White Paper contained an appendix listing all submission respondents, the majority of inquiry participants thought the non-release of the submissions displayed a lack of transparency on the part of the government.⁴¹

³⁷ NSW Department of Industry, Skills and Regional Development, Response to Crown Lands Legislation White Paper: Summary of Issues and Government Response, 2015, p 3.

³⁸ NSW Department of Industry, Skills and Regional Development, Response to Crown Lands Legislation White Paper: Summary of Issues and Government Response, 2015, p 4.

³⁹ NSW Department of Industry, Skills and Regional Development, Response to Crown Lands Legislation White Paper: Summary of Issues and Government Response, 2015, p 4.

⁴⁰ See for example: Submission 20, Ms Marcelle Hoff, p 1; Submission 104, Hunter Environment Lobby, p 4; Submission 117, Friends of King Edward Park, p 11; Submission 122, Central West Environment Council, p 2; Submission 138, Castlecrag Progress Association, p 2; Submission 164, Better Planning Network, pp 2-3; Submission 216, Ms Sharon Lashbrooke, p 1; Submission 254, Ms Lynne Saville, p 4; Submission 266, Mr Gary Jackson, p 1; Submission 267, Ms Jane Anderson, p 1.

⁴¹ See for example: Submission 46, Mr Simon C Mallender, p1; Submission 39, Mr Dale Curtis, pp 3-4; Submission 104, Hunter Environment Lobby, p 4; Submission 122, Central West Environment Council, p 2; Submission 164, Better Planning Network, pp 2-3; Submission 254, Ms Lynne Saville,

- 1.30** Many community inquiry participants also considered the White Paper consultation process inadequate and called for further community consultation regarding the proposed new legislation and transfer and sale of Crown land.⁴²

New Crown land legislation

- 1.31** Following the tabling of this report, the NSW Government will be introducing a new, single Crown land management bill into Parliament in late 2016, to replace the existing range of legislation regulating Crown lands. The proposed new legislation reflects the recommendations made in the Crown Lands Legislation White Paper and the NSW Government's response.
- 1.32** The Hon Niall Blair MLC, Minister for Primary Industries, Minister for Lands and Water stated that the new legislation will make a range of changes to the management of Crown land:

The objects of the new bill will recognise the need to integrate environmental, social, cultural heritage and economic considerations in decision-making about Crown land; reduce complexity and duplication when it comes to managing Crown land as eight existing Acts will be consolidated into one, modern, new bill; and support greater local decision-making by allowing locally significant Crown land to be devolved to a local level of ownership and management and to retain land of State significance under State control. ... The bill will strengthen opportunities for community involvement. A community engagement strategy will be required in relation to major decisions about Crown land. It will increase opportunities for Aboriginal involvement in the management of Crown land. The objects of the new bill will provide for Aboriginal use and co-management of Crown reserves.⁴³

- 1.33** All of these important matters will be explored in detail throughout this report.

Exposure draft of the new Crown land legislation

- 1.34** Many inquiry participants agreed that an exposure draft of the bill should be publicly released for comment before the legislation is introduced, or as an alternative, the Minister should introduce the bill and then allow it to sit for three weeks in Parliament before being debated. As Ms Donna Rygate, Chief Executive Officer, Local Government NSW, and other participants said 'the devil is always in the detail' – without knowing how the bill is specifically worded, one cannot provide full support or anticipate unintended consequences.⁴⁴

p 4; Submission 266, Mr Gary Jackson, p 1; Submission 299, Ms Robyn Charlton, p 1; Submission 338, Ms Janine Kitson, pp 3-4; Submission 345, Blue Mountains Conservation Society, p 3.

⁴² See for example: Submission 39, Mr Dale Curtis, pp 3-4; Submission 122, Central West Environment Council, p 2; Submission 47, Ms Vera Yee, p 1; Submission 104, Hunter Environment Lobby, p 4; Submission 116, Nature Conservation Council of NSW and National Parks Association of NSW, pp 12-13; Submission 20, Ms Marcelle Hoff, p 1; Submission 240, Dr Tatiana Paipetis, p 1.

⁴³ Evidence, The Hon Niall Blair MLC, Minister for Primary Industries, Lands and Water, 29 July 2016, p 33.

⁴⁴ See for example: Evidence, Ms Donna Rygate, Chief Executive Officer, Local Government NSW, 29 July 2016, p 54; Evidence, Ms Jenny Bennett, Executive Officer, Central NSW Councils (CENTROC), 2 August 2016, p 19; Evidence, Ms Samantha Urquhart, Property Manager, Public Domain and Corporate Property, City of Sydney, 29 July 2016, p 30; Evidence, Mr Nathan Moran,

- 1.35** The Minister told the committee that no exposure draft of the bill would be made available because the bill was yet to be finalised.⁴⁵ However, the Minister assured the committee that there would be no surprises in the legislation.⁴⁶ On 23 August 2016, the Minister provided the committee with a summary table comparing key features of the current *Crown Lands Act 1989* and the proposed new bill. The summary table also included comments from the Crown Land White Paper consultation process.⁴⁷ This table is provided in full at Appendix 1 and is also available on the committee's website.

Committee comment

- 1.36** The committee appreciates the Minister providing some high level information about the proposed new bill. Although we acknowledge the concerns of the community regarding the Minister's decision not to publicly release an exposure draft. Without an exposure draft, the committee and the public are still in the dark as to the detail of the new legislation. The Parliament will need to carefully consider the bill when it is introduced into the Parliament, as Crown lands are a vitally important asset to the people of New South Wales. A detailed discussion of the proposed new legislation will occur in chapter 2 while the transfer and sale of Crown land and issues surrounding community consultation will be addressed in chapter 3.

Chief Executive Officer, Metropolitan Local Aboriginal Land Council, 29 July 2016, p 17; Evidence, Ms Frances Bray PSM, President, Lake Wollumboola Protection Association Inc, 1 August 2016, p 31; Evidence, Mr Gary Kelson, Chair, Huskisson Woollamia Community Voice, 1 August 2016, p 31; Evidence, Ms Bev Smiles, Secretary, Central West Environment Council, 2 August 2016, p 40; Evidence, Mr Ross Davies, Coordinator Contracts and Property Services, Lismore City Council, 3 August 2016, p 4; Evidence, Mr Paul Hickey, General Manager, Ballina Shire Council, 3 August 2016, p 4; Evidence, Ms Kate Smolski, Chief Executive Officer, Nature Conservation Council of NSW, 15 August 2016, p 56; Submission 147, Environmental Defenders Office NSW, p 2.

⁴⁵ Evidence, Minister Blair, 15 August 2016, p 67.

⁴⁶ Evidence, Minister Blair, 15 August 2016, p 68.

⁴⁷ Answers to questions on notice, The Hon Niall Blair MLC, Minister for Primary Industries, Lands and Water, 23 August 2016.

Chapter 2 Ownership and management of Crown land

This chapter examines the ownership and management of Crown land by considering the proposed legislative changes to be introduced by the NSW Government in late 2016 and the development of plans of management. The chapter will primarily focus on local council views to these proposed changes. The position of the community in relation to the management, sale and environmental protection of Crown land will be considered in detail later in the report.

Management of Crown land

- 2.1** The *Crown Lands Act 1989* is the principal legislation governing the use, management and administration of Crown land in New South Wales. There are two broad types of Crown land; Crown reserves and tenured Crown land. Crown reserves are parcels of land set aside for a public purpose, while tenured Crown land has been leased or licensed to a third party.
- 2.2** Crown land is owned by the NSW Government for the people of New South Wales. While the Government directly manages some of this Crown land, it is principally managed by third parties, either through the issuing of leases or licences, or under a system of Crown reserve management.⁴⁸
- 2.3** According to the Act, the principles of Crown land management are as follows:
- that environmental protection principles be observed in relation to the management and administration of Crown land
 - that the natural resources of Crown land (including water, soil, flora, fauna and scenic quality) be conserved wherever possible
 - that public use and enjoyment of appropriate Crown land be encouraged
 - that, where appropriate, multiple use of Crown land be encouraged
 - that, where appropriate, Crown land should be used and managed in such a way that both the land and its resources are sustained in perpetuity
 - that Crown land be occupied, used, sold, leased, licensed or otherwise dealt with in the best interests of the State consistent with the above principles.⁴⁹

Management by trustees

- 2.4** Crown reserves are managed by a number of different entities, including local councils, community organisations, volunteer and professional trust managers and NSW Government sector. Every local council acts as reserve manager for Crown land reserves in their local government area. Reserve managers are responsible for managing reserve trusts and both managers and trusts are appointed by the Minister for Lands and Water.⁵⁰

⁴⁸ Submission 128, NSW Government, p 6.

⁴⁹ *Crown Land Act 1989*, s 11.

⁵⁰ *Crown Land Act 1989*, ss 92 and 95.

- 2.5** There are different types of reserve trusts. Community volunteer reserve trusts, managed by more than 3,000 volunteers, look after individual Crown reserves containing showgrounds, racecourses, local parks and other community facilities and public areas.⁵¹
- 2.6** A small number of professional reserve trusts manage significant Crown reserves, including holiday parks and cemeteries. These professional trusts have extensive assets as well as paid board members, chief executive officers and staff.⁵² NSW Government trustees include the Lands Administration Ministerial Corporation and the Department of Industry.
- 2.7** Hundreds of incorporated community groups, such as Scouts and Girl Guides, are appointed as corporate reserve trusts to manage community facilities. Most of these reserves are funded through fundraising and volunteer effort, low-key commercial activities and NSW Government grants, including the Public Reserves Management Fund. This fund provides financial support for the development, maintenance and protection of public reserves. Over the last five years, more than \$95 million has been allocated to support Crown reserves.⁵³
- 2.8** A Reserve Trust Handbook, prepared by the Department of Industry – Lands, assists stakeholders in managing Crown land.⁵⁴

Management under leases or licences

- 2.9** There are around 53,000 tenures granted over Crown land for a variety of private and community purposes. These comprise approximately 8,600 leases, 18,400 licences and permissive occupancies, and 26,000 permits to enclose Crown roads (Crown roads will be examined in detail in chapter 5).⁵⁵
- 2.10** Crown leases provide for exclusive use of Crown land for a specified term and purpose. A lease creates an interest in land and can be registered on title. Generally, leases are sought over Crown land where longer-term security of tenure is an important factor, such as agricultural activities, caravan parks, clubs and sporting facilities.
- 2.11** Crown licences allow the licence holder to use Crown land for a specific purpose or activity, such as communications, extractive industry, grazing and domestic waterfronts. Tenures are typically structured so that the holder is responsible for all land management functions associated with the land. For example, the tenure holder is responsible for maintaining built assets, fire management and control of pests and weeds.⁵⁶

⁵¹ Submission 128, NSW Government, p 7.

⁵² Submission 128, NSW Government, p 7.

⁵³ Submission 128, NSW Government, p 7.

⁵⁴ Department of Industry – Lands, Reserve Trust Handbook, available at: http://www.crownland.nsw.gov.au/trusts/trust_handbook..

⁵⁵ Submission 128, NSW Government, p 8.

⁵⁶ Submission 128, NSW Government, p 8.

Plans of management

- 2.12** Plans of management may be prepared for Crown reserves according to Division 6 of the *Crown Lands Act 1989*. According to the Reserve Trust Handbook a plan of management is:
- ... the document which defines the value, use, management practices and intent for the broad public purpose for which the land has been reserved or dedicated. The plan of management should be consistent with the public purpose for the reserve and the principles of Crown land management, as well as other guidelines, policies, and legal requirements which may apply to the reserve such as the provisions of environmental planning instruments ... and threatened species or native vegetation controls.⁵⁷
- 2.13** These plans can be requested by the Minister for Lands and Water or may be initiated by reserve trusts or the Department of Industry – Lands. Following preparation, a draft plan of management is placed on public exhibition for 28 days where public comments are considered. Plans of management adopted under Crown land legislation do not require a public hearing and there is no formal process for submissions, although ‘any person may make representations concerning the draft plan to the Minister’ while the plan is being displayed.⁵⁸
- 2.14** The Minister may then adopt the plan ‘without alteration or with such alterations as the Minister thinks fit’.⁵⁹ Plans of management become regulatory instruments, which bind a reserve trust and can give statutory authority to other types of plans, such as conservation management plans.⁶⁰

Proposed legislative changes regarding the ownership and management of Crown land

- 2.15** The NSW Government has indicated that the existing legislative framework is unnecessarily complex, with overlapping administrative responsibilities and inconsistencies in management. This has resulted in delays and backlogs, lack of clarity for the community regarding which agency controls particular land and confusion regarding inconsistent provisions in different legislation for similar land activities.⁶¹ This section examines proposals in the upcoming legislation to solve these management issues.

State and Local land

- 2.16** The NSW Government has stated that proposed Crown land legislation will introduce the terms ‘Local land’ and ‘State land’. Through this proposal the NSW Government would retain Crown land that is of State significance (State land) and would consider devolving land of local significance (Local land) to a local level of ownership and management. The Hon Niall

⁵⁷ Department of Industry – Lands, *Reserve Trust Handbook*, p 45.

⁵⁸ *Crown Land Act 1989*, s 113.

⁵⁹ *Crown Lands Act 1989*, s 114(1).

⁶⁰ Department of Industry – Lands, *Plans of Management*, http://www.crownland.nsw.gov.au/crown_land/crown_reserves/management.

⁶¹ Answers to questions on notice, Minister for Primary Industries, Minister for Lands and Water, received 23 August 2016, pp 1-2.

Blair MLC, Minister for Primary Industries, Minister for Lands and Water confirmed that this transfer to local councils will be undertaken on a voluntary, opt-in basis where both State and local governments would have to reach an agreement before any land is transferred.⁶²

2.17 The NSW Government contended that transferring Local land to councils will allow local interests and needs to be managed locally. In addition, it stated that communities will be in a greater position to influence land management decisions through the processes under the *Local Government Act 1993*.⁶³

2.18 Land of primarily local community value, for example parks and other public spaces, will be made available to local councils as ‘community land’ under the *Local Government Act*. Limited parcels of land that councils can demonstrate are used for operational purposes, such as land used for works depots or waste sites will be able to be transferred as ‘operational land’ consistent with the *Local Government Act*.⁶⁴ See the next section for an understanding of community and operational land.

Management of land under the Local Government Act 1993

2.19 Under the *Local Government Act 1993* there are two types of public land:

- community land
- operational land.

2.20 Community land is land to be kept for public use, such as public parks, while operational land can be land held as a temporary asset or an investment, land which facilitates the carrying out by a council of its functions, or land which may not be open to the general public, such as a works depot or a council garage.

2.21 The major consequence of these two classifications is the ease or difficulty with which land may be sold or leased. Except under limited circumstances, community land must not be sold. It must not be leased or licensed for more than 21 years and may only be leased or licensed for more than 5 years if public notice of the proposal is given. In the event that an objection is made, the Minister’s consent must be obtained. No such restrictions apply to operational land.

2.22 The *Local Government Act* also contains provisions for the transfer of land from ‘community land’ to ‘operational land’. In order for this to occur, a council must give public notice of the proposed resolution to reclassify for at least 28 days. During this time submissions may be made to council. In addition, council must then arrange a public hearing.⁶⁵

2.23 The use and management of community land is to be regulated by a plan of management. Under the *Local Government Act*, community land must have a plan of management. Until this plan is adopted, the nature and use of the land cannot change.⁶⁶ Consultation for plans of

⁶² Submission 128, NSW Government, p 16; Evidence, The Hon Niall Blair MLC, Minister for Primary Industries, Minister for Lands and Water, 29 July 2016, p 33.

⁶³ Submission 128, NSW Government, p 15.

⁶⁴ Submission 128, NSW Government, p 15.

⁶⁵ *Local Government Act 1993*, ss 25-34.

⁶⁶ *Local Government Act 1993*, Ch 6, Pt 2, note.

management are similar to the methods for reclassification, with a submission period and a public hearing.⁶⁷

- 2.24** These provisions for consultation are more prescriptive than the respective provisions in the *Crown Lands Act*. As noted above, plans of management under current Crown land legislation do not require a public hearing to be held and there is no formal process for submissions, although ‘any person may make representations concerning the draft plan to the Minister’ while the plan is being displayed.⁶⁸ Plans of management will be examined at paragraph 2.91 and consultation will be considered in detail in chapter 4.

Local Land Pilot

- 2.25** The NSW Government conducted a ‘desktop’ Local Land Pilot in 2015 to explore the amount and type of Crown land that is likely to be identified as Local land under the proposed legislation. No land was transferred under this pilot. The following four local councils took part:
- Corowa Council, now Federation Council
 - Warringah Council, now Northern Beaches Council
 - Tamworth Regional Council
 - Tweed Shire Council.⁶⁹
- 2.26** The pilot demonstrated significant council interest in the concept of Local land and in the potential for that land to be owned by councils.⁷⁰
- 2.27** As this pilot was investigating a new concept, the four councils signed a confidentiality agreement to allow the NSW Government and local governments to share information. The confidentiality agreement has since ended and the Department of Industry has provided the committee with its findings and recommendations (provided in full at Appendix 2).⁷¹
- 2.28** The four councils identified 389 Crown reserves in total that they are interested in owning and managing. Of this figure, 191 are already managed by council, while the other 198 reserves are managed by others, including boy scout/girl guide halls, travelling stock routes, cemeteries and recreation reserves.⁷²
- 2.29** Two key recommendations stemmed from the review: that criteria be developed to guide councils in identifying land which may be more suitable for local government ownership or management; and a set of agreed principles to guide the local land model.

⁶⁷ *Local Government Act 1993*, ss 38 and 40A.

⁶⁸ *Crown Land Act 1989*, s 113.

⁶⁹ Submission 128, NSW Government, p 15.

⁷⁰ Evidence, Minister Blair, 29 July 2016, p 33.

⁷¹ Evidence, Mr David Clarke, Group Director Governance and Strategy, Department of Industry — Lands, 15 August 2016, p 70.

⁷² Answers to questions on notice, Minister for Primary Industries, Minister for Lands and Water, received 29 August 2016, p 6.

2.30 The pilot recommended the following criteria to guide councils:

Taking into account surrounding land uses or the landscape in which the Crown land is situated, local land includes:

- land that provides, or has the demonstrated potential to provide, consistent with local planning instruments, a public good predominantly for people in the local government area or in adjacent local government areas
- land use that is consistent with the functions of local government, or land that has identified potential to be used for activities consistent with local government functions
- land that is managed, or has the identified potential to be managed, as a community asset by local government or some other body
- any land not meeting the local/and criteria will default to state land.

2.31 A major consideration for this process is the large number of outstanding Aboriginal land claims throughout the State. The department noted that it had yet to consult with local Aboriginal land councils in relation to this pilot although there is another associated pilot regarding Aboriginal Land Agreements that will be conducted shortly. This second pilot will be discussed in detail in chapter 6, which specifically addresses Aboriginal land claims.

2.32 Ms Donna Rygate, Chief Executive Officer, Local Government NSW stated that the only ‘gap’ in the Local Land Pilot relates to the Aboriginal perspective, and thought that it is critical that it involves Aboriginal people and the local Aboriginal land councils.⁷³

2.33 Mr Stephen Ryan, Councillor, Central Region, NSW Aboriginal Land Council, stated that the council is looking forward to the pilots and hoped the process would be productive:

The NSW Aboriginal Land Council has had consultations around the State about the proposal to horse trade on land claims—State land versus local land and so on. We all know it is our land anyway. Our network across the State is looking forward to the four pilots. Let us hope they do not crash and burn like most pilots have across the mountains.⁷⁴

2.34 Ms Nela Turnbull, Legal Services Officer, Tweed Shire Council, explained the complexities in relation to Aboriginal land claims and was unsure how transferring Local land to councils would fit in with this process:

In relation to the local land pilot and Aboriginal land claims, there was no real discussion about how to address the backlog of land claims or how they could be processed better. The local land pilot was more a process of reviewing Crown land parcels within our shire; a review as to whether they were locally used; whether there were valuable parcels that could be developed; and there were questions about whether that would be done by the Crown or by a local council. The local land pilot did not actually scrutinise Aboriginal land claims, but it was raised as a factor. We quite strongly and repeatedly emphasised the fact that it would be difficult for any Crown reserves to be transferred and vested. There were questions about that transfer

⁷³ Evidence, Ms Donna Rygate, Chief Executive Officer, Local Government NSW, 29 July 2016, p 55.

⁷⁴ Evidence, Mr Stephen Ryan, Member, Dubbo Aboriginal Land Council and Councillor, Central Region, NSW Aboriginal Land Council, 2 August 2016, p 26.

process to a local council if there was a claim over it. There was always the question of: How do we deal with that?⁷⁵

- 2.35** The NSW Government noted the next stage of this process is the commencement of voluntary land transfer negotiations with the four local councils, NSW Aboriginal Land Council and the relevant local Aboriginal land councils. Land will only be transferred where there is agreement between the NSW Government, local council and the local Aboriginal land council and all negotiations will be on a voluntary basis.⁷⁶

Local government view

- 2.36** The majority of local councils supported the NSW Government's legislative proposal to transfer the ownership of some parcels of Crown land to local government. This reflects the reality that local government already manages a significant proportion of Crown land and is best placed to carry out this management on the basis of local knowledge.⁷⁷

- 2.37** Ms Lee Furness, Director Corporate Policy, Shellharbour City Council explained that for consistency in the management and vision for the local area it makes sense for the local council to own and manage Crown land:

... it is so contiguous with our land holding. We have got a you-beaut, schmick marina and foreshore that is our coastal land and then we have the Crown—and it is dreadful. Not all of it is. It is just not managed in the way that we would like it in its level of amenity. Then we have more of our land and a little bit of Crown again. Because we want consistency and because tourism is our thing, we want it all to look neat.⁷⁸

- 2.38** Further to this, Mr Peter Coyte, Manager Property and Recreation, Wollongong City Council explained the practical disadvantages of the current system, for example where some sites are half on Crown land and half on community land, which 'poses some real issues in terms of leases and management'.⁷⁹ This was affirmed by Mr Tim Geyer, Manager Parks and Garden, Queanbeyan-Palerang Regional Council who stated that for one sports field in Queanbeyan 'the dividing line between Crown and community land is straight down the middle of the sports field'.⁸⁰

⁷⁵ Evidence, Ms Nela Turnbull, Legal Services Officer, Tweed Shire Council, Northern Rivers Regional Organisation of Councils, 3 August 2016, p 3.

⁷⁶ Submission 128, NSW Government, p 16.

⁷⁷ See for example: Submission 103, City of Parramatta Council, p 1; Answers to questions on notice, Ballina Shire Council, received 24 August 2016, p 2; Answers to questions of notice, Local Government NSW, received 29 August 2016, p 4.

⁷⁸ Evidence Ms Lee Furness, Director Corporate Policy, Shellharbour City Council, 1 August 2016, p 10.

⁷⁹ Evidence, Mr Peter Coyte, Manager Property and Recreation, Wollongong City Council, 1 August 2016, p 4.

⁸⁰ Evidence, Mr Tim Geyer, Manager Parks and Garden, Queanbeyan-Palerang Regional Council, 1 August 2016, p 14.

- 2.39** Although Crown land can already cost councils large amounts of money, Mr Coyte explained that the benefits of owning and managing this land outweighs the negative of cost:

We will be spending it whether we have it or not, I guess. We manage Crown lands under two ways. Under care and control it is devolved to us through the *Local Government Act* so we have the opportunity to maintain that land but we have very little input into how we then manage that land, lease or licence it or what we might do to develop that land. Under trust we have a lot more say in how we are able to manage that land. Whilst we still have the spend, there are a lot of Crown lands where we do not have control or input into how that is managed and dealt with. If you take those lands on [as Local land] you then have that input and the community gets a much bigger say if we are then starting to develop community plans of management around those parcels of land.⁸¹

- 2.40** Local Government NSW noted that while the majority of councils would welcome the transfer of Crown reserves that they already manage, councils are not advocating this as a 'blank cheque'. Ms Rygate indicated that prior to transfer, each parcel of land will need to be closely examined to ensure there are no unintended disadvantages for councils, or cost shifting. She explained that councils were wary that the review of Crown land was an exercise to cost shift.⁸²

- 2.41** Mr Shaun McBride, Senior Police Manager, Local Government NSW stated that some parcels of Crown land are of little community value or benefit, there is considerable expense in managing the land, such as controlling feral animals and noxious weeds, and councils would have no way of generating extra revenue to manage the land properly.⁸³ For this reason, Local Government NSW welcomed assurances made by the Minister that the transfer of land would be made on a voluntary basis.⁸⁴

- 2.42** Local Government NSW argued that along with an opt-in provision, the NSW Government must fully disclose all relevant information to local councils regarding each parcel of land to ensure councils make an informed decision, in particular in relation to:

- the state of the land, for example, the condition of internal roads and other assets
- Aboriginal land rights claims and Aboriginal heritage sites
- other heritage sites or restrictions
- contaminated sites
- the extent of any noxious weed or feral animal infestation
- any bushfire hazard reduction requirements.⁸⁵

- 2.43** Although local governments were generally supportive of the concept of Local land, there were still a number of concerns about the cost to councils of such a transfer. Local Government NSW stated that in some circumstances councils may only accept land if they

⁸¹ Evidence, Mr Coyte, 1 August 2016, p 9.

⁸² Evidence, Ms Rygate, 29 July 2016, p 50.

⁸³ Evidence, Mr Shaun McBride, Senior Police Manager, Local Government NSW, 29 July 2016, p 53.

⁸⁴ Answers to questions on notice, Local Government NSW, received 29 August 2016, p 1.

⁸⁵ Answers to questions on notice, Local Government NSW, p 1.

can see the potential for full cost recovery from the site, or they can extract cost recovery from the NSW Government.⁸⁶

- 2.44** While generally supportive of the measures, Mr Russ Pigg, General Manager, Shoalhaven City Council, asserted that there needs to be ‘funding safeguards to avoid cost-shifting for local government’.⁸⁷ Bourke Shire Council similarly noted that there is a clear need for local governments to receive additional funding to take on the responsibility of controlling reserves. It explained that a typical reserve in a country location would already be maintained at a cost to council with limited income generating capacity.⁸⁸
- 2.45** In terms of income generation, Inner West Council stated that currently the Department of Industry – Lands is paid directly by telecommunication companies for telecommunication towers on Crown land. It argued that if this land becomes Local land, the fee should instead be paid directly to local councils as ‘it is unreasonable to expect the local council to take the primary financial burden but lose the income being derived’.⁸⁹
- 2.46** Other councils such as Kyogle Council, while strongly supporting the transfer of Crown reserves of local interest to council, wanted the legislation to go further and classify land transferred to council as operational land under the *Local Government Act*.⁹⁰
- 2.47** There was also support for the proposal to transfer limited parcels of land as operational land, such as land used for works depots or waste sites. Moree Plains Shire Council noted it was appropriate to consider strategies to enable a reduction in Crown land without extensive investigation or administration, such as reserves for a municipal purpose which should be owned by councils.⁹¹ The council noted there must be an appreciation that across New South Wales ‘there are a lot more reserves for night soil and garbage depots than there are Paddington Bowling Clubs and King Edward Parks’.⁹²

Community concerns

- 2.48** A number of community inquiry participants expressed strong reservations with the NSW Government’s proposal to devolve Crown land to local government ownership.
- 2.49** Mr John Owens stated he would be ‘horrified’ if local councils were given ownership over trust properties, arguing that ‘we have seen nothing but abject failure by local councils in their ability to manage Crown lands for the benefit of the public’.⁹³ Ms Cheryl Borsak, Chair, Crown Land Our Land, supported this position stating that many councils ‘do not do the right thing’ and ‘are not doing their job’.⁹⁴

⁸⁶ Answers to questions on notice, Local Government NSW, p1.

⁸⁷ Evidence, Mr Russ Pigg, General Manager, Shoalhaven City Council, 1 August 2016, p 4.

⁸⁸ Submission 175, Bourke Shire Council, p 5.

⁸⁹ Submission 349, Inner West Council, p 3.

⁹⁰ Answers to questions on notice, Kyogle Council, received 24 August 2016, p 3.

⁹¹ Submission 95, Moree Plains Shire Council, p 2.

⁹² Submission 95, Moree Plains Shire Council, p 3.

⁹³ Evidence, Mr John Owens, Private individual, 15 August 2016, p 49.

⁹⁴ Evidence, Ms Cheryl Borsak, Chair, Crown Land Our Land, 15 August 2016, p 49.

- 2.50** Lane Cove Bushland and Conservation Society Inc did not support handing ownership of Crown land to local councils, as there could be ‘a massive sell off of Crown Land for development, losing forever otherwise important natural areas’.⁹⁵
- 2.51** Other community participants expressed concern that the Local land pilot had been conducted secretly, with no community involvement. Some participants stated that it is ‘outrageous that the community has had no say in the criteria which will determine Crown land as either State or Local land’.⁹⁶
- 2.52** Ms Bev Smiles, Secretary, Central West Environment Council was alarmed at the lack of transparency associated with the Local land pilot and stated that environmental expertise should be involved in the process:

Just an example of the lack of transparency that has been occurring in the current review process, which has been of great concern to us, is that the pilot projects being run with local government to identify local land have been done under confidentiality agreements. So there has been no access to anyone else in the community with how this process has been run. We believe there needs to be environmental and heritage expertise involved in the process and an actual comprehensive assessment of these values because all of the decisions being made in this Crown land review are being undertaken in a data vacuum.⁹⁷

Government response

- 2.53** The NSW Government declared that ‘selling Crown land is not and has never been the priority of the reform process’. Instead it argued that the objectives are to identify ‘who is best placed to manage Crown land, ... empower local decision making over local land and identify and protect Crown land that is important to the State and local communities’.⁹⁸ If Crown land managed by councils is transferred in freehold there will be little change and it will be transferred as community land.
- 2.54** Minister Blair addressed concerns that land will be transferred to councils as operational land:
- Some people are concerned that if land is to be transferred to councils how will that be treated? That would stay as community land. The only exception will be for land used for things like works depots and weigh stations, which clearly meet the definition of operational land under the *Local Government Act*; and the State will retain Crown land of State significance.⁹⁹
- 2.55** The NSW Government indicated that, based on the pilot, Local land will generally be land that is already managed by councils as reserve trust manager, land that is actively used by the local community, or land that contains council operated facilities.¹⁰⁰

⁹⁵ Submission 100, Lane Cove Bushland and Conservation Society Inc, p 2.

⁹⁶ See for example: Submission 39, Mr Dale Curtis, p 4; Submission 57, Name Suppressed, p 3; Submission 104, Hunter Environment Lobby Inc, p 4.

⁹⁷ Evidence, Ms Bev Smiles, Secretary, Central West Environment Council, 2 August 2016, p 39.

⁹⁸ Submission 128, NSW Government, p 15.

⁹⁹ Evidence, Minister Blair, 29 July 2016, p 34.

¹⁰⁰ Submission 128, NSW Government, p 16.

Land to remain in State control

- 2.56** Throughout this inquiry the committee heard evidence that particular types of land and facilities such as travelling stock routes and reserves, showgrounds and scout halls should not be transferred to the ownership of local councils as they are too important.

Travelling stock routes and reserves

- 2.57** Travelling stock routes are thoroughfares for walking domestic livestock, such as sheep or cattle, from one location to another, while travelling stock reserves are parcels of land set aside for use by travelling or grazing stock. These will be explored in more detail in chapter 5.
- 2.58** Mr Philip Dartnell, Consultant, Combined Action to Retain Routes for Travelling Stock Group (CARRTS) and Ms Ruth Penfold, Member, CARRTS argued that travelling stock routes and reserves should remain as Crown land. Mr Dartnell noted that if they moved to council ownership, at some point they could be rezoned and then sold, which would be ‘disastrous’.¹⁰¹
- 2.59** Friends of Koala Inc also considered that travelling stock routes should remain in public ownership and be managed to maintain biodiversity, serving as habitat corridors. If they were to be sold off, the State would miss an important opportunity to help threatened species, including koalas.¹⁰²
- 2.60** Environmentally Concerned Citizens of Orange also stated that travelling stock routes and reserves must remain in State control as they play a vital conservation role supporting biodiversity. Because grazing is strictly controlled, stock reserves are rich repositories of diverse flora and fauna, while stock routes have the capacity to provide corridors for the movement of native fauna.¹⁰³

Showgrounds

- 2.61** Agricultural shows are an important community asset. They provide a great mixture of business and entertainment and are of historic importance for local communities, with about 60 percent of shows well over 100 years old. The Agricultural Societies Council of New South Wales is the peak body which assists in the running of 195 agricultural shows, the majority of which are held on Crown land.¹⁰⁴
- 2.62** Mr David Peters, President, Agricultural Societies Council contended that showgrounds should remain in the Crown’s hands as local councils do not ‘have the long term future of showgrounds as its core philosophy, but rather sees showgrounds as an economic windfall’.¹⁰⁵

¹⁰¹ Evidence, Mr Philip Dartnell, Consultant, Combined Action to Retain Routes for Travelling Stock Group, 2 August 2016, p 37.

¹⁰² Submission 106, Friends of Koala Inc, p 1.

¹⁰³ Submission 112, Environmentally Concerned Citizens of Orange, p 2.

¹⁰⁴ Evidence, Mr David Peters, President, Agricultural Societies Council of New South Wales, 15 August 2016, p 18.

¹⁰⁵ Submission 229, Agricultural Societies Council of NSW Ltd, p 1; Evidence, Mr Peters, August 2016, p 18.

- 2.63** Mr Peters explained that many shows have faced recent financial difficulties due to constant rent increases by trusts. In addition, recent years have seen an increase in pressure for shows to vacate their valuable grounds with no regard for their longstanding contribution to the community. Mr Peters argued that ‘unacceptable means have been used by land managers to weaken the show’s hold on the ground, including applying local government legislation to Crown lands as if they were the owner and not the manager’.¹⁰⁶
- 2.64** The Agricultural Societies Council stated their preferred position would be for showgrounds to remain Crown land, and for them to become the Crown reserve manager of all the active showgrounds on Crown land, thereby accepting responsibility for their ongoing management. The Agricultural Societies Council has suggested that it work with the department to develop such a proposal.¹⁰⁷

Scout and Girl Guide halls

- 2.65** Scouts and Girl Guides Australia provide an important community program to develop the leadership and personal skills of Australia’s youth. While the committee did not receive evidence from Girl Guides Australia, Scouts Australia told the committee that they were not in favour of the NSW Government reforms that may devolve land occupied by Scouts to local councils.
- 2.66** Scouts Australia is the occupant of some 190 Crown sites, held under various types of tenure direct from the Crown, including 150 sites where Scouts occupies Crown reserves as the reserve trust manager.¹⁰⁸
- 2.67** Scouts Australia explained that local councils are increasingly adopting a more commercially focused approach to lease rents. This includes fees to be paid by licensees and tenants of council managed properties. Scouts claimed that should the management of Crown land shift to council, this will increase the financial uncertainty for Scouts and could negatively affect their ability to continue with the delivery of programs in local communities.¹⁰⁹
- 2.68** In addition, the need for Scouts to discuss, communicate and negotiate with a large number of local councils rather than one Crown land entity will have a direct impact on organisational capacity.¹¹⁰ Further, an unintended consequence of passing rights over Crown land to council may be the eventual disposal or lease to third parties of the land. It stated that sale of land would adversely affect Scouts and its contributions made to the social capital of the local community.¹¹¹

Crown land Managers

- 2.69** Another legislative reform proposal is the simplification of reserve management practices. The NSW Government has proposed to remove reserve trusts from the legislation and have

¹⁰⁶ Evidence, Mr Peters, 15 August 2016, p 18.

¹⁰⁷ Evidence, Mr Peters, 15 August 2016, p 18.

¹⁰⁸ Submission 253, Scouts Australia, p 1.

¹⁰⁹ Submission 253, Scouts Australia, p 3.

¹¹⁰ Submission 253, Scouts Australia, p 3.

¹¹¹ Submission 253, Scouts Australia, p 4.

reserves administered by Crown Land Managers appointed by the Minister. This will simplify the management system from a three-tier to a two-tier structure.

- 2.70** The NSW Government considered that this will remove ‘duplication and unnecessary complications while keeping in place the fundamental principle [that] Crown reserves are managed by groups appointed by the Minister who are charged with the care, control and management of those reserves’. It will also make it more transparent as to which entity is responsible for managing a reserve. In practice, existing reserve trust managers and boards will be automatically converted into a single Crown Land Manager, with the board membership continuing unaffected.¹¹²
- 2.71** The NSW Government noted there was overwhelming support for this proposal.¹¹³ However, the committee has not received sufficient evidence on this issue.

Council management of Crown reserves

- 2.72** Currently, councils manage Crown reserves according to the *Crown Land Act*. This means they adopt different management practices for community land they own under the *Local Government Act* and for Crown land. The NSW Government proposed to change this practice so that councils will generally manage Crown reserves as community land under the *Local Government Act*.
- 2.73** Interestingly, a number of inquiry participants, including Mr Tim Geyer, Manager Parks and Garden, Queanbeyan-Palerang Regional Council explained that in practice ‘a lot of Crown land that is managed by a council ... is [already] managed in the same way as community land’.¹¹⁴ This is to simplify management procedures and also provides the community with the more stringent consultation practices specified in the *Local Government Act*.
- 2.74** Unlike Crown land legislation where plans of management are only required at the request of the Minister, plans of management are required for all community land under the *Local Government Act*. For this reason, the NSW Government has suggested that for Crown reserves managed by councils, this requirement be phased in over a three-year period. In addition, under the new proposal, council will not be able to sell or reclassify Crown land without ministerial approval.
- 2.75** The NSW Government noted that local councils broadly supported this proposal, although there were concerns about the cost to council. The committee received evidence from some councils that the NSW Government should provide funding to assist councils to prepare plans of management under the *Local Government Act* for Crown reserves.¹¹⁵ The Government

¹¹² Answers to questions on notice, Minister for Primary Industries, Minister for Lands and Water, received 23 August 2016, p 5.

¹¹³ Answers to questions on notice, Minister for Primary Industries, Minister for Lands and Water, received 23 August 2016, p 5.

¹¹⁴ Evidence, Mr Geyer, 1 August 2016, p 18.

¹¹⁵ See for example: Submission 82, Port Macquarie-Hastings Council, p 1.

indicated to the committee that funding support would be provided to councils for this purpose.¹¹⁶

2.76 One suggestion that could assist to solve the issue of cost is for existing local council generic community land plans of management to apply to Crown land where the council is the reserve trust manager. Shoalhaven City Council suggested to the committee that these generic plans should apply to Crown land as it would avoid inconsistencies in the management of land in the local council area.¹¹⁷

2.77 Canberra Region Joint Organisation recommended that the Department of Industry – Lands prepare a strategic plan in consultation with local governments to clearly articulate and identify how effective management and maintenance of Crown land will be undertaken and resourced. It also considered that a Crown Lands Commissioner be appointed to oversee the implementation of the strategic plan and the new legislation.¹¹⁸

Land management in the Western Division

2.78 The overwhelming majority (96 per cent, 29 million hectares) of Crown land in New South Wales is in the Western Division. This area contains land that is vital for agriculture and grazing.¹¹⁹

2.79 The NSW Government noted that its proposed legislation would enable lessees of certain perpetual leases in the Western Division to apply to purchase their land as freehold. The purpose of this is to balance environmental considerations with economic opportunities for leaseholders. The government claimed that the proposed legislation would also remove unnecessary approval requirements for certain activities on Western Lands leases such as conservation, tourism and farm tourism, feedlots, aquaculture, sporting and leisure events. The NSW Government also noted that a draft Productivity Commission report, released in July 2016, highlighted that current restrictions on the use of Crown land places unnecessary burdens on farm businesses leasing this land.¹²⁰

2.80 Some inquiry participants,¹²¹ and in particular the Nature Conservation Council of NSW and National Parks Association of NSW, raised environmental concerns with these proposed changes to legislation, stating they are not in the best interests of biodiversity. They considered the repealing of the *Western Lands Act 1901* to be problematic as it would remove provisions referring to ecologically sustainable development, as one of the objects of the current Act is to ‘ensure that land in the Western Division is used in accordance with the principles of ecologically sustainable development’.¹²²

¹¹⁶ Answers to questions on notice, Minister for Primary Industries, Minister for Lands and Water, received 23 August 2016, p 6.

¹¹⁷ Answers to questions on notice, Shoalhaven City Council, received 31 August 2016, p 23.

¹¹⁸ Answers to questions, Canberra Region Joint Organisation, received 25 August 2016, p 2.

¹¹⁹ Submission 128, NSW Government, p 5.

¹²⁰ Submission 128, NSW Government, p 18.

¹²¹ See for example: Submission 104, Hunter Environment Lobby Inc.; Submission 112, Environmentally Concerned Citizens of Orange.

¹²² Submission 116, Nature Conservation Council of NSW and National Parks Association of NSW, p 7.

- 2.81** Ms Cerin Loane, Policy and Research Coordinator, Nature Conservation Council of NSW explained that the Nature Conservation Council of NSW was not opposed ‘to rolling the eight Acts, including the *Western Lands Act*, into one’, but wanted to see the same management principles in the new Act.¹²³
- 2.82** In addition, Nature Conservation Council of NSW and National Parks Association of NSW were of the view that leases in the Western Division should not be converted to freehold unless the Minister is satisfied that the proposed future use of the land is ecologically sustainable.¹²⁴

Committee comment

- 2.83** The committee notes these legislative proposals by the government. However, there are a number of issues for concern. The committee notes the very real concerns that while there are many very capable local councils that will protect land transferred to them as Local land, there are a minority of councils that are not as capable or community orientated. Given this, there is inadequate existing or proposed protections to ensure Crown land that is transferred to local councils will be protected in the public interest. If the proposal to transfer Crown land as Local land is to proceed, then additional protections to ensure the land is retained as public in the public interest should be considered in the legislative reforms.

Recommendation 1

That the NSW Government consider additional legislative protections to ensure Local land is retained as public land and managed in the public interest.

- 2.84** Given the proposed legislative changes are complex, the committee supports the suggestions from the Canberra Region Joint Organisation that a strategic plan be prepared by the Department of Industry – Lands in consultation with local governments that establishes how Crown land will be effectively managed, maintained and resourced under the new legislative framework and that a Crown Lands Commissioner be appointed to oversee its implementation.

Recommendation 2

That the Department of Industry – Lands prepare a strategic plan, in consultation with local governments, that establishes how Crown land will be effectively managed, maintained and resourced under the new Crown land legislative framework.

¹²³ Evidence, Ms Cerin Loane, Policy and Research Coordinator, Nature Conservation Council of NSW, 15 August 2015, p 54.

¹²⁴ Submission 116, Nature Conservation Council of NSW and National Parks Association of NSW, p 7.

Recommendation 3

That the NSW Government include a provision in new Crown land legislation for the appointment of a Crown Lands Commissioner to oversee the implementation and management of new Crown land legislation.

- 2.85** Although the committee is pleased that the Minister has clarified that the transfer of land from the Crown to local government will be done on a voluntary basis, there is still a great deal of concern regarding the cost for councils to take on such a responsibility. Councils have indicated to the committee that they feel obligated to take on the ownership of certain parcels of land to ensure they are adequately maintained and are part of a holistic planning and management framework for the local area. At this stage, it appears that the Local land transfers will be undertaken at a cost to council, with no assistance from the State.
- 2.86** Therefore, the committee recommends that the NSW Government develops a model to be included in the legislation that will assist to reimburse councils for taking on the responsibility for owning and managing Local land. As part of this process the Government should ensure that equitable access to funds from any money generating capabilities on Crown land, such as telecommunication towers, be transferred to local government.
-

Recommendation 4

That the NSW Government develop a proposal to be included in new Crown land legislation that will recompense local councils for owning and managing Crown land as Local land, including transferring to local government equitable access to funds from any money generating capabilities on the land, such as telecommunication towers.

- 2.87** The committee also supports the position of Shoalhaven City Council which proposed for generic plans of management, established according to the *Local Government Act*, to apply to Crown land managed by local councils. The committee encourages the NSW Government to specify in Crown land legislation that local councils may apply generic plans of management established according to the *Local Government Act*.
- 2.88** While the committee is generally supportive of the NSW Government's proposal to devolve some parcels of Crown land to local government ownership, there are some specific types of facilities that are so important to the community that they should remain in the State's control. The committee is particularly interested in seeing provisions in the legislation for showgrounds, travelling stock routes and reserves and Scout/Girl Guide halls to be classified as State land, and accordingly recommends this to the government.
-

Recommendation 5

That the NSW Government include a provision in new Crown land legislation for showgrounds, travelling stock routes and reserves and Scout/Girl Guide halls to be classified as State land.

- 2.89** Further, the committee is of the opinion that the level of consultation with local Aboriginal land councils to date has been inadequate. So far the traditional owners of the land have not had a seat at the table in the pilot project that is guiding the government's reforms. The government has first gone to a select group of local councils to work out what land they would like transferred to local government ownership. This has been done without considering the fact that many of these parcels of land already have outstanding Aboriginal land claims.
- 2.90** The NSW Government must ensure that the next stage of this reform process is consultative, fair and transparent for Aboriginal people, as the proposed Local land model cannot work without their important voice. This matter will be considered further in chapter 6.

Development of plans of management

- 2.91** Throughout the inquiry, participants raised a number of issues with plans of management. Plans of management are not required to be prepared for Crown land unless one is requested by the Minister. Under Crown land legislation the Minister (or delegate) is required to sign off on plans of management in order for them to be in effect.
- 2.92** Inquiry participants had different views regarding whether the Minister's signature should be required and noted that many plans of management for Crown land operate in draft form only. Six plans of management have been adopted by the current Minister, although he has not personally signed off on any of these plans.¹²⁵
- 2.93** Mr David McPherson, Group Director Regional Services, Department of Industry – Lands confirmed that draft plans of management are not enforceable. Although he stated that 'in most cases once a council has been consulted, if they have got a draft plan of management ... they tend to follow that plan'.¹²⁶ Mr David Clarke, Group Director Governance and Strategy, Department of Industry – Lands acknowledged that there is no minimum time period in the current Act by which a plan of management needs to be signed.¹²⁷
- 2.94** Ms Rygate considered it unnecessary to send all plans of management to the Minister for sign off.¹²⁸ Similarly, Mr Tim Geyer, Manager Parks and Garden, Queanbeyan-Palerang Regional

¹²⁵ Answers to questions on notice, Minister for Primary Industries, Minister for Lands and Water, received 29 August 2016, pp 25-26.

¹²⁶ Evidence, Mr David McPherson, Group Director Regional Services, Department of Industry — Lands, 29 July 2016, p 40.

¹²⁷ Evidence, Mr Clarke, 29 July 2016, p 41.

¹²⁸ Evidence, Ms Rygate, 29 July 2016, p 57.

Council argued that the most important part of the process was effective consultation with the community and that ‘sending it off for a Minister’s tick afterwards is bureaucracy’.¹²⁹

2.95 Alternatively, Ms Samantha Urquhart, Manager, Property Division, City of Sydney Council, was of the view that plans of management should continue having the Minister as the final sign off and considered that the more thorough consultation processes under the *Local Government Act* should be included in the new Crown land legislation.¹³⁰ She asserted that community consultation under the *Crown Lands Act* is not adequate. This is primarily because under the *Crown Lands Act* plans of management are not mandatory and leases under five years do not require public consultation.¹³¹

2.96 Minister Blair stated that the current system for the approval of plans of management going through the Minister would continue in the proposed bill. He did not have a ‘firm view’ whether ministerial sign off should be required, but instead argued that community engagement was the paramount consideration of the process:

I think whether it is the Minister that signs it or whether it is delegated the most important thing is the content and the consultation with the stakeholders in the development of the management plan. It is not something I have a firm view of at the moment as to whether it should be the Minister or not. It is more about the processes of making sure that we engage community when we go through and develop plans of management.¹³²

2.97 Some councils thought that only highly valued Crown land should require a plan of management. This ‘value’ could be community, cultural, or environmental.¹³³ Ballina Shire Council noted that parcels of land which contain features of special significance would benefit from site specific plans of management.¹³⁴ Community consultation will be discussed separately in chapter 4.

2.98 Canberra Region Joint Organisation questioned the need for plans of management for small or single use parcels of Crown land and stated that this land could instead be governed by planning and zoning controls.¹³⁵

Alternate model to plans of management

2.99 A number of councils indicated to the committee that an alternate model to plans of management should be considered for Crown reserves.

¹²⁹ Evidence, Mr Geyer, 1 August 2016, p 19.

¹³⁰ Evidence, Ms Samantha Urquhart, Manager, Property Division, City of Sydney Council, 29 July 2016, p 30.

¹³¹ Evidence, Ms Urquhart, 29 July 2016, p 23.

¹³² Evidence, Minister Blair, 29 July 2016, p 38.

¹³³ Answers to questions on notice, Dungog Shire Council, received 29 August 2016, p 6.

¹³⁴ Answers to questions on notice, Ballina Shire Council, p 1.

¹³⁵ Answers to questions on notice, Canberra Region Joint Organisation, p 3.

- 2.100** Ms Jenny Bennett, Executive Officer, Central NSW Councils argued that formal plans of management do not add value to the framework:

From a council's perspective, we have so many other strategic obligations, integrated planning and reporting and so on. That is where we invest our value on community feedback on the use of land and just about everything that we do. Yes, it is a statutory obligation, but it is a bit like the unwanted vegetables on the side of the plate. We absolutely will meet all our statutory obligations, but I would suggest that they are not really adding very much value to our communities or our councils.¹³⁶

- 2.101** Shoalhaven City Council explained that plans of management are 'very resource and time hungry in their development' and their outcomes often duplicate existing generic community land plans of management, which, as previously noted, are mandatory according to the *Local Government Act*. The council indicated that plans of management cost in the region of \$60,000 to \$100,000 to develop.¹³⁷
- 2.102** Shoalhaven City Council went on to note that the plan of management mechanism is very bureaucratic and is difficult for the general public to understand and follow. Instead, it stated that the process could be simplified through the development of a master plan with specific priorities that align with relevant legislation and policy framework.¹³⁸
- 2.103** Ballina Shire Council supported this proposal and argued that an 'overarching management plan document' is considered to be a good mechanism for the long term planning and management of Crown land. However, this does not necessarily need to be in the form of a plan of management. Similar to Shoalhaven's recommendation, Ballina discussed its success with the application of 'master plan style documents' for multiple parcels of Crown land where council is appointed as the Reserve Trust Manager.¹³⁹
- 2.104** For example, Ballina Shire Council noted its coastal reserve plan of management which 'covers a collective set of land parcels with somewhat common characteristics managed under an overarching plan of management with precinct based plans that specify more detailed outcomes along different parts of the coastline'.¹⁴⁰ It explained the benefits of this process and how it was achieved:

... this success is because master plans are typically more tangible for the community, they are easier to understand, are less legalistic in their nature and council's plans have been founded in local community engagement to determine land management and use outcomes. One way to achieve overarching Crown land management outcomes and enable master planning to occur and give it some formality is to establish generic or broad plans of management for Crown Land in local government areas (incorporating multiple land parcels). Site specific requirements and detailed plans can be identified in such documents. This allows progressive planning for land under a set of guiding principles and demonstrates a holistic management approach to the land asset. This could be done in a way similar to the generic plan of management approach used by local government in managing community land owned by councils. A key issue for

¹³⁶ Evidence, Ms Jenny Bennett, Executive Officer, Central NSW Councils, 2 August 2016, p 14.

¹³⁷ Answers to questions on notice, Shoalhaven City Council, p 23.

¹³⁸ Answers to questions on notice, Shoalhaven City Council, p 23.

¹³⁹ Answers to questions on notice, Ballina Shire Council, p 1.

¹⁴⁰ Answers to questions on notice, Ballina Shire Council, p 1.

local government is the cost of financing plans of management for Crown land as there is typically very little funding available from the State Government to local government for plan preparation. The bureaucracy associated with the completion of a formal Plan of Management is also problematic particularly in relation to the time frame involved.¹⁴¹

Committee comment

- 2.105** The committee considers that the process for the development of plans of management should be consistent across legislation and that, where applicable, meaningful community consultation must occur. It is highly impractical for Crown land legislation to maintain different and weaker community consultation practices than local government legislation. The committee therefore recommends that new Crown land legislation provide for consultation methods based on provisions in the *Local Government Act*. Given Crown land is not one-size-fits-all due to the diversity in the size, parcels and uses of Crown land, a different approach and level of scrutiny of dealing with these parcels is required. The committee considers model plans of management for different classes of land would be beneficial.

Recommendation 6

That the NSW Government include in new Crown land legislation consultation methods based upon plans of management that currently operate in the *Local Government Act 1993*, including model plans of management for different classes of land.

Beneficial commercial activities on Crown land

- 2.106** Some inquiry participants discussed the need for small community-oriented commercial activities to operate on Crown land such as a pop-up diner or a pop-up coffee shop in order for lessees or managers to recoup revenue. It was considered that plans of management should be flexible enough to incorporate these arrangements.
- 2.107** Participants deemed it important to get the balance right between ensuring recreation areas are maintained for their stated purpose and providing a service that benefits both the public and the land manager.¹⁴²
- 2.108** Mr Brad Shiels, Executive Manager, New South Wales Crown Holiday Parks Trust, noted that in areas such as Urunga which are popular for public recreation where there 'are families picnicking and kicking the soccer ball around, canoeing, walking, those sorts of things', the trust has refrained from allowing any commercial activities to be undertaken. Although he explained that the trust had recently started trialing a monthly market in an area of the park where the public are less likely to congregate. Similarly, Mr Shiels explained that at Red Rock

¹⁴¹ Answers to questions on notice, Ballina Shire Council, p 1.

¹⁴² Evidence, Mr Paul Hickey, General Manager, Ballina Shire Council, Northern Rivers Regional Organisation of Councils, 3 August 2016, p 9; Evidence, Ms Urquhart, 29 July 2016, p 24.

the local community is very strong about keeping the area as natural as possible, so the trust has been hesitant about allowing commercial activities to operate.¹⁴³

- 2.109** Minister Blair contended that using Crown land for small-scale commercial purposes is essential, as it provides facilities to the local community and generates opportunities for small businesses to open in regional communities:

The revenue from these uses underpins the maintenance of Crown land reserves across the State through funding provided from the Public Reserves Management Fund.... Access to Crown land to run a business has two key benefits: it ensures that there are facilities and services that people come to use and enjoy, such as recreational and social activities and the ability to enjoy food and get an ice-cream, for example. This enhances any experience or visit to a local reserve. It also generates opportunities for small businesses to open and prosper in regional communities.¹⁴⁴

Case study – Stockton Bowling Club¹⁴⁵

Stockton Bowling Club is a small suburban not-for-profit club which has operated for 102 years on Crown land with a lease in perpetuity as a sporting body. The club struggles with raising the \$150,000 per annum to maintain this asset for the community and needs to adopt outside-the-box methods of raising revenue.

Earlier this year the club was approached by a company that installs telecommunication towers for mobile phone reception. The club was considered an ideal location to boost signal to the growing suburban communities north of the area. To organise this, the company would replace one floodlight pole at no cost and pay an annual rent of \$12,000 to the club. This represented a massive opportunity for the club to gain a revenue stream at no impact to facilities or members and added a benefit to the community.

However, Department of Industry – Lands informed the club that they cannot rent/sublet Crown Land for a ‘non sporting’ reason. Furthermore, the department indicated that if the tower was installed the club’s rent would increase by the amount of revenue generated. Stockton Bowling Club was disappointed with the inflexibility of the department and raised the following questions:

When our lease was drawn up, mobile phones did not exist so how can we provision for such events now? Is a box on a pole a ‘nonsporting’ activity? Is the raising of funds to provide sporting related activities by putting a box on a pole [even] an activity?¹⁴⁶

¹⁴³ Evidence, Mr Brad Shiels, Executive Manager, New South Wales Crown Holiday Parks Trust, August 2016, p 48.

¹⁴⁴ Evidence, Minister Blair MLC, 15 August 2016, p 64.

¹⁴⁵ Submission 90, Stockton Bowling Club.

¹⁴⁶ Submission 90, Stockton Bowling Club, p 3.

- 2.110** Inquiry participants also discussed concerns regarding commercial license agreements on Crown land for activities such as surf schools. Mojo Surf expressed the view that council imposed licenses and fees under the *Crown Lands Act* and *Local Government Act* restricted trade and growth of surf school businesses.¹⁴⁷ It added that common issues faced by surf schools included an inability to transfer licenses if the business was sold and an inability to invest in business due to the need to tender for licenses.¹⁴⁸
- 2.111** To remedy this situation, Mojo Surf proposed that license agreements for all operators be standardised and offered on a long term basis, preferably 10 years with review periods, to allow businesses to substantially invest in the area.¹⁴⁹ It also recommended that operators be given the opportunity to hold more than one license to operate in a region, and ‘to apply for new and additional licenses in any area based on specific impact studies and reports for the area’.¹⁵⁰
- 2.112** Further, throughout the inquiry the issue of affordable housing was also raised, including for Aboriginal communities.¹⁵¹ A possible option to increase the availability of affordable housing could be through the use of Crown land.

Committee comment

- 2.113** The committee asserts that an important aspect of the management of Crown land is that plans of management and leases should be flexible enough to allow for small community-oriented commercial activities to operate for the benefit of both the community and the operators of the land. The committee is of the view that this flexibility should allow for commonsense decisions to be easily made such as facilitating a pop-up cafe or an ice-cream stall in a park and accordingly recommends that the Department of Industry – Lands develop guidelines to ensure this can occur. In relation to surf schools, the committee notes the growing popularity of this commercial activity and the need for greater flexibility and long term security for growth and investment.

Recommendation 7

That the Department of Industry – Lands develop guidelines to ensure that plans of management and leases on Crown land are flexible enough to allow for small community-oriented commercial activities (for example pop-up diners or coffee vans) to operate for the benefit of both the community and the manager or lessor of the land.

¹⁴⁷ Supplementary submission 350a, Mojo Surf, p 3.

¹⁴⁸ Supplementary submission 350a, Mojo Surf, p 3.

¹⁴⁹ Supplementary submission 350a, Mojo Surf, p 4.

¹⁵⁰ Supplementary submission 350a, Mojo Surf, p 4.

¹⁵¹ Evidence, Mr Sean Gordon, Chief Executive Officer, Darkinjung Local Aboriginal Land Council, 8 August 2016, p 27.

- 2.114** The committee also considers that Crown land provides an excellent opportunity for affordable housing and recommends that the NSW Government consider introducing a shared equity scheme for affordable housing on Crown land.

Recommendation 8

That the NSW Government consider introducing a shared equity scheme for affordable housing on Crown land.

Chapter 3 Access to information on Crown land

This chapter discusses a range of issues raised during the inquiry concerning the accessibility of information regarding Crown land. A focus of this chapter is the lack of public information provided by the Department of Industry – Lands.

Difficulties in identifying Crown land

- 3.1 A number of inquiry participants spoke about the lack of information available to the public regarding the State's Crown land assets. A key concern was the difficulties experienced in identifying what was Crown land and where to find such information.
- 3.2 Mr Mark Corrigan, Save Collingwood Beach, was shocked at how hard it was to access information about Crown land. He informed the committee that in order to gain any information about the Collingwood beach reserve, he had to lodge a Government Information (Public Access) Act [GIPA] application to council.¹⁵²
- 3.3 Mr Corrigan said that despite obtaining information under the GIPA request, he was still unsure if he had 'an accurate list of purposes for that reserve because there is no repository that you can rely on'.¹⁵³ He suggested there should be a complete register of Crown reserves readily available online to assist the public with their queries.¹⁵⁴
- 3.4 This was echoed by Dr Oisin Sweeney, Chair, Jervis Bay Regional Alliance, who described the difficulties in obtaining 'any high-quality information about the location, ecological condition and any sort of management of Crown lands',¹⁵⁵ while Ms Bev Smiles, Secretary, Central West Environment Group, agreed that at present, the public do not have access to information about the 'extent of Crown land across the State'.¹⁵⁶
- 3.5 Numerous submission authors highlighted the fact that 'there is a lack of publicly available up-to-date State-wide mapping of Crown land'¹⁵⁷ which prevented individuals, community organisations and others from 'independently verify[ing] the current extent of Crown land'.¹⁵⁸
- 3.6 Similarly, inquiry participants also suggested there be a stocktake or audit of all Crown land in the State to 'correctly identify all Crown land, and secondly to understand what factors may be

¹⁵² Evidence, Mr Mark Corrigan, Save Collingwood Beach, 1 August 2016, p 32.

¹⁵³ Evidence, Mr Corrigan, 1 August 2016, p 32.

¹⁵⁴ Submission 121, Save Collingwood Beach, p 2.

¹⁵⁵ Evidence, Dr Oisin Sweeney, Chair, Jervis Bay Regional Alliance, 15 August 2016, p 41.

¹⁵⁶ Evidence, Ms Bev Smiles, Secretary, Central West Environment Group, 2 August 2016, p 40.

¹⁵⁷ Submission 299, Ms Robyn Charlton, p 1; Submission 144, Clarence Valley Conservation Coalition Inc, p 1; Submission 142, Nowra Group of the Australian Plants Society (NSW), p 2; Submission 140, Knitting Nannas Against Gas, Armidale Loop, p 1; Submission 125, Lake Wollumboola Protection Association, p 8.

¹⁵⁸ Submission 57, Name suppressed, p 1; Submission 63, Mr Andreas Dalman, p 1; Submission 104, Hunter Environment Lobby Inc, p 2; Submission 137, Cumberland Bird Observers Club Inc, p 2; Submission 254, Ms Lynne Saville, p 1.

impacting each parcel'.¹⁵⁹ Participants were of the view that in order to effectively manage Crown land, the Department of Industry – Lands needs to first know what it is actually managing.¹⁶⁰ In fact, many community members called on the committee to instigate an immediate moratorium on any Crown and public land being sold or developed until the committee had completed its inquiry, or until a stocktake of all Crown land had been conducted by the Department of Industry – Lands.¹⁶¹

- 3.7** The Central West Environment Council stated that the lack of accessible data and maps of the Crown estate made it very difficult for the community to determine what was Crown land, with neither the Department of Industry, nor the Local Land Services website providing such information.¹⁶²
- 3.8** This view was shared by Mr David Abrams, member of Gosford Waterfront Alliance who informed the committee that 'the complexity of the search and mapping of Crown land is prohibitive to anyone ... who wishes to investigate the status of Crown land'. He stated that many community members found it difficult to determine what was Crown land, public land and private land.¹⁶³
- 3.9** The Wollondilly Macarthur Mountain Bicycle Club thought the Department of Industry – Lands website was a 'terrible website that does not contain regular updates' therefore making it 'difficult to find appropriate information'.¹⁶⁴ As the club argued, 'Using the links is like going around in circles and the search function is not very useful for finding relevant information'.¹⁶⁵
- 3.10** Ms Frances Bray PSM, President, Lake Wollumboola Protection Association Inc., provided the example of Jervis Bay Regional Park as an area where there is no information on the department's website: 'there is absolutely no detail, there is no map, there is no plan of management'.¹⁶⁶
- 3.11** Dr Tatiana Paipetis thought it was essential that a clear public register of Crown lands be made freely available to all members of the public'.¹⁶⁷

¹⁵⁹ Submission 133, Orange City Council, p 3; Submission 225, Central NSW Councils, p 7.

¹⁶⁰ Evidence, Mr Ross Harris, Land Utilisation Officer, Moree Plains Shire Council, 2 August 2016, p 53; Evidence, Ms Kate Smolski, Nature Conservation Council, 15 August 2016, p 55; Tabled document, Ms Emma Brooks Maher, Crown Land Our Land, *Key Recommendations*, p 1.

¹⁶¹ Pro forma submission A, p 1 (available at <https://www.parliament.nsw.gov.au/committees/DBAssets/InquiryOther/Transcript/10097/Proforma%20A.pdf>); Submission 109, Dirawong Reserve Trust Board, p 4; Submission 139, Saving Sydney Trees, p 6; Submission 141, New England Greens Armidale Tamworth, p 2; Submission 145, Tweed District Residents and Ratepayers Association, p 3; Submission 151, Duffys Forest Residents Association Inc, p 3; Submission 163, The Recreational Fishing Alliance of NSW, p 6; Submission 165, Tomaree Ratepayers and Residents Association, p 1; Submission 166, Port Stephens Greens, p 1; Submission 337, Ms Ingrid Maganov, p 2.

¹⁶² Submission 122, Central West Environment Council, p 2.

¹⁶³ Evidence, Mr David Abrams, Member, Gosford Waterfront Alliance, 8 August 2016, pp 34-35.

¹⁶⁴ Submission 70, Wollondilly Macarthur Mountain Bicycle Club, p 1.

¹⁶⁵ Submission 70, Wollondilly Macarthur Mountain Bicycle Club, p 1.

¹⁶⁶ Evidence, Ms Frances Bray OAM, President, Lake Wollumboola Protection Association Inc, 1 August 2016, p 32.

¹⁶⁷ Submission 240, Dr Tatiana Paipetis, p 2.

- 3.12** The Ryde Hunters Hill Flora and Fauna Preservation argued that an online Crown land map portal such as Six Maps should include ‘current manager details and a basic history of any changes made via Government Gazettal notice. Ideally, the map should be able to identify past sales and alienations of Crown land’. It stated that this would improve the public’s knowledge and access of Crown land.¹⁶⁸
- 3.13** Mr Michael Carapiet, former Chairman of the Crown Land Review Steering Committee, said that during his review there was ‘a feeling that there was not enough spent on IT’ in the Department of Industry – Lands but was unable to comment if it was due to lack of funding.¹⁶⁹
- 3.14** Ms Alison Stone, Deputy Director General, Department of Industry – Lands noted the department was attempting to invest in an upgrade to a modernised information system ‘to deal with the whole of the Crown estate’ that can answer a query from one database as opposed to multiple sources, which is currently the case.¹⁷⁰
- 3.15** The lack of access to Crown land information was not limited to the public. Mr Ross Davies, Coordinator – Contracts and Property Services, Lismore City Council, thought that many councils were only familiar with Crown land reserves that were managed by the council. The remainder of the land within a council’s boundaries was usually extremely hard to identify and find information about.¹⁷¹ For example, Lismore City Council has 175 pieces of land, less than 40 to 50 pieces of that land are dealt with on a regular basis, while the rest is completely unknown.¹⁷²
- 3.16** Mr Davies added that if a local council did not have ‘a very good relationship with the local Crown lands office’ then it became very difficult to find information, noting that sometimes even ‘they have difficulty finding information’.¹⁷³
- 3.17** Ms Sue Chidgey a member of Save Central Coast Reserves, informed the committee that Central Coast Council was proposing to reclassify and sell off 10 reserve sites in the area. When council staff were questioned at a public meeting about the matter they were unable to say if any of the sites were Crown land.¹⁷⁴ It was not until a month later that council staff advised Ms Chidgey that the sites were not Crown land.¹⁷⁵

¹⁶⁸ Submission 71, Ryde Hunters Hill Flora and Fauna Preservation, pp 2-3.

¹⁶⁹ Evidence, Mr Michael Carapiet, Former Chairman, Crown Land Review Steering Committee, 15 August 2016, pp 9-10.

¹⁷⁰ Evidence, Ms Alison Stone, Deputy Director General, Department of Industry – Lands, 15 August 2016, p 68.

¹⁷¹ Evidence, Mr Ross Davies, Coordinator – Contracts and Property Services, Lismore City Council, 3 August 2016, p 3.

¹⁷² Evidence, Mr Davies, 3 August 2016, p 3.

¹⁷³ Evidence, Mr Davies, 3 August 2016, p 3.

¹⁷⁴ Evidence, Ms Sue Chidgey, Member, Save Central Coast Reserves 8 August 2016, p 33; See also Submission 15, Mr Douglas Williamson, p 1; Submission 121, Save Collingwood Beach, p 2; Submission 228, Mr Christopher Grounds, p 2; Submission 231, Dr John Byrnes, p 1.

¹⁷⁵ Evidence, Ms Chidgey, 8 August 2016, p 37.

- 3.18** As Ms Chidgey explained there was very little information available to determine if land is Crown land, noting the only document she could access was the 'lands register of 2014 which had some 3,000 sites written on it with very few of them marked Crown land'.¹⁷⁶

Staffing in the Department of Industry – Lands

- 3.19** Some inquiry participants thought the Department of Industry – Lands was understaffed which impacted its ability to answer customer queries and operate efficiently.¹⁷⁷
- 3.20** The Nature Conservation Council of NSW, National Parks Association of NSW and Central West Environment Council were of the opinion that both the Department of Industry – Lands and Local Land Services 'must be adequately resourced and have staff with appropriate expertise to identify and manage high conservation value Crown land'.¹⁷⁸
- 3.21** Mr Ross Harris, Land Utilisation Officer, Moree Plains Shire Council, recalled that in 1989 when the *Crown Land Act* came into force there were '18 people working in the lands office at Moree' but now there were two. As a result, he thought the ability of the department to implement the new legislation was limited.¹⁷⁹
- 3.22** The Canberra Region Joint Organisation considered the department to be 'incredibly under resourced' and argued that adequate staffing and funding should be provided so that the department can work effectively with local government.¹⁸⁰
- 3.23** Griffith City Council was concerned that inadequate resourcing and the downsizing of local Crown land staff would impact the ability of the Department of Industry – Lands to manage 'current assets and in the future to undertake any transfer of land'.¹⁸¹ Griffith City Council thought the reduction in staff had, led to 'reduced progress, stagnated decision making and lack of staff to maintain the Crowns assets'.¹⁸²
- 3.24** Ms Stone advised there is 140 staff working in the department's regional offices in client services.¹⁸³ She stated that in 2015/16 the Department of Industry – Lands centralised call centre provided information to 22,726 clients regarding Crown land issues and services. Of this, 72 per cent of calls were completed at first point of call in the centralised call centre while 28 per cent were referred to a district office for further action.¹⁸⁴

¹⁷⁶ Evidence, Ms Chidgey, 8 August 2016, p 37.

¹⁷⁷ Submission 71, Ryde Hunters Hill Flora and Fauna Preservation, p 14; Submission 116, Nature Conservation Council of NSW and National Parks Association of NSW, p 16; Submission 122, Central West Environment Council, p 5; Submission 149, Crown Land Our Land, p 5; Submission 161, North Parramatta Residents Action Group, p 1.

¹⁷⁸ Submission 116, Nature Conservation Council of NSW and National Parks Association of NSW, p 16; Submission 122, Central West Environment Council, p 5.

¹⁷⁹ Evidence, Mr Harris, 2 August 2016, p 52.

¹⁸⁰ Submission 322, Canberra Region Joint Organisation, p 2.

¹⁸¹ Submission 73, Griffith City Council, p 2.

¹⁸² Submission 73, Griffith City Council, p 2.

¹⁸³ Evidence, Ms Stone, 15 August 2016, p 66.

¹⁸⁴ Answers to questions on notice, Hon Niall Blair MLC, Minister for Primary Industries, Land and Water, 30 August 2016, p 1.

- 3.25** The Minister for Lands and Water, the Hon Niall Blair MLC, was confident that a budget allocation of around '\$7 million over four years for IT services for the department' would ensure the department is efficient, conducive and responsive to customer applications.¹⁸⁵
- 3.26** The Minister also argued it was not an issue of staffing but rather an issue of trying to work 'within an outdated legislative framework' and the need to implement better information technology capabilities.¹⁸⁶

Committee comment

- 3.27** The committee acknowledges the concerns of the public regarding the lack of information made publicly available by the Department of Industry – Lands. We are also troubled by reports of the department's own apparent lack of knowledge of the full extent of Crown land assets. The committee therefore recommends that the Department of Industry – Lands undertake a stocktake of all Crown land in the State before any land is transferred to local government as Local land under the proposed legislative framework.

Recommendation 9

That the Department of Industry – Lands undertake a stocktake of all Crown land in New South Wales before any land is transferred to local government as Local land under proposed new Crown land legislation.

- 3.28** We also acknowledge the difficulties faced by members of the public in accessing information about Crown land, particularly maps and registers of Crown land which are not provided on the Department of Industry – Lands website. We note the Minister has indicated that \$7 million will be used to update IT services and believes that this is a good opportunity to digitise maps of Crown land. We therefore recommend that the Department of Industry – Lands undertake a digitisation project of maps identifying Crown land, and release an accurate register of Crown land to improve public access and knowledge.

Recommendation 10

That the Department of Industry – Lands undertake a digitisation project of maps identifying Crown land in New South Wales and publicly release an accurate register of Crown land.

¹⁸⁵ Evidence, Hon Niall Blair MLC, Minister for Primary Industries, Lands and Water, 15 August 2016, pp 65-66.

¹⁸⁶ Evidence, Minister Blair, 15 August 2016, pp 65-66.

Chapter 4 Preservation of Crown land and community consultation

This chapter considers the protection of Crown land to ensure it is preserved and enhanced for future generations. The chapter will then explore community consultation regarding the management, commercial use and disposal of Crown land.

Sale and leasing of Crown land

- 4.1 According to the *Crown Land Act 1989*, the Minister may ‘sell, lease, exchange or otherwise dispose of or deal with Crown land’. However, this cannot occur unless the sale, exchange or lease is at least 14 days after notice has been published in ‘a newspaper circulating in the locality in which the land is situated or in a newspaper circulating generally in the State’. This does not authorise the sale of Crown land which is reserved for a public purpose.¹⁸⁷
- 4.2 Crown land can only be sold if the sale is in the best interest of the State and consistent with the principles of the Act (see paragraph 2.3). Land is sold when it is no longer required for broader community purposes, or by the NSW Government. In addition, some existing tenure holders have rights in their tenure agreements to purchase land leased to them.
- 4.3 The NSW Government explained that since colonial times, the New South Wales economy has been facilitated through the sale, leasing and licensing of Crown land. Proceeds from these activities are reinvested into managing Crown land, or used to fund other NSW Government programs. In the 2014-15 financial year, 40 parcels of Crown Land were sold, returning \$5.2 million to the State.
- 4.4 The Department of Industry reports information about the sale of Crown land in its annual report. The Department of Industry – Lands has many operational policies, such as ‘Direct Negotiations for the Sale and Lease of Crown Land’, to guide its decision making about selling, leasing and licensing Crown land.¹⁸⁸

The preservation of Crown land

- 4.5 As noted in chapter 2, the principles of Crown land management encompass social, environmental and economic factors. However, many inquiry participants were of the view that the Department of Industry – Lands and local councils place more importance on economic factors than on social and environmental outcomes. Many inquiry participants also expressed a general opposition to the sale of Crown land.¹⁸⁹

¹⁸⁷ *Crown Land Act 1989*, s 34.

¹⁸⁸ Submission 128, NSW Government, p 9.

¹⁸⁹ See for example: Submission 43, Ms Lowana Chapman; Submission 44, Mr Ian Bailey; Submission 45, Mr Barry Kemp; Submission 49, Ms Merrill Witt; Submission 51, Mrs Jacqueline Franklin; Submission 56, Mrs Felicity Crombach; Submission 58, Mr Stephen Lord; Submission 62, Ms Beverley Maunsell; Submission 88, Dr Ted Nixon; Submission 145, Tweed District Residents & Ratepayers Association; Submission 186, Margaret Hope; Submission 188, Margaret Hogg; Submission 191, Mr Peter Martyn; Submission 196, Ms Janet McCubbin; Submission 202, Mr

- 4.6** Dr Oisin Sweeney, Chair, Jervis Bay Regional Alliance argued that Crown land with valuable social and environmental characteristics should not be sold, unless there are extenuating circumstances and should be done under a transparent process:

One of the key principles, I would say, is that Crown land with particular recreation, ecological or amenity value certainly should not be sold off unless there is an extreme case for that and that decision-making on Crown land for the community needs to be very transparent. I think that is a real improvement that could be made...¹⁹⁰

- 4.7** Dr Sweeney recommended an ecological audit of all Crown land, prioritising areas with high developmental pressures, such as the coastal strip of New South Wales. He explained that it is vital that commercial development does not come at the cost of natural assets and we should make sure ‘that we do not kill the golden goose’.¹⁹¹

- 4.8** Ms Kate Smolski, Chief Executive Officer, Nature Conservation Council of NSW explained the significance of Crown land for the ecology of the State:

The principal reason that Nature Conservation Council takes an active interest in the management of Crown lands is because they encompass a wide range of natural habitats, from the subtidal and intertidal areas and coastal habitats to the arid habitats of western New South Wales. Crown lands contain endangered ecological communities and threatened species in many areas of the State. Particularly in urban areas Crown lands often contain important remnant vegetation. In certain parts of the State, for example, in the Central Division, where clearing for agricultural activities has been extensive, Crown lands within travelling stock routes and reserves are often the area with significant communities of native vegetation and wildlife.¹⁹²

- 4.9** Mr Kevin Evans, Chief Executive Officer, National Parks Association of NSW argued that Crown land should be managed in accordance with the principles of ecological sustainable development and that consideration of the social, cultural and environmental values should be mandatory before land is leased, licensed or sold.¹⁹³

- 4.10** Dr Cilla Kindross, President, Central West Environment Council stated that the retention and sensitive management of Crown land is one of the most important factors that can arrest biodiversity decline. She also asserted that the retention and management of Crown lands is a better solution to biodiversity than revegetation.¹⁹⁴

Margareta Keal; Submission 214, Maria Bradley; Submission 219, Ms Cynthia Brook; Submission 227, Peter Henderson; Submission 232, Mr Paul Jackson; Submission 237, Ms Robin Hanson; Submission 288, Ms Julie Marlow; Submission 303, Ms Claire Bettington.

¹⁹⁰ Evidence, Dr Oisin Sweeney, Chair, Jervis Bay Regional Alliance, 15 August 2016, p 42.

¹⁹¹ Evidence, Dr Sweeney, 15 August 2016, p 41.

¹⁹² Evidence, Ms Kate Smolski, Chief Executive Officer, Nature Conservation Council of NSW, 15 August 2016, p 52.

¹⁹³ Evidence, Mr Kevin Evans, Chief Executive Officer, National Parks Association of NSW, 15 August 2016, p 53.

¹⁹⁴ Evidence, Dr Cilla Kindross, President, Central West Environment Council, 2 August 2016, p 39.

- 4.11** Mr Nick King, President, Environmentally Concerned Citizens of Orange highlighted the cultural and environmental significance of retaining Crown land:

We find constantly that our role is to fight people and interests who want to sell off areas of Crown land, or public land in general, to develop it inappropriately to the detriment of the cultural and environmental values inherent in lots of areas. We are also very concerned about any sell-off of public land because we are going to need it. We might need public land and Crown land for purposes of which we are not even aware now. It has to be retained and it has to be managed properly.¹⁹⁵

- 4.12** Ms Maria Matthes, Member, Friends of the Koala Inc discussed the importance of Crown lands to the iconic koala. She expressed concern that the ‘loss of habitat and fragmentation of their habitat’ was extremely worrying and the situation for New South Wales koalas ‘is quite dire’. She asserted that all the coastal populations and many others are declining and the koalas’ persistence or extinction will be dependent on decisions made now and in the near future.¹⁹⁶

- 4.13** For example, Ms Matthes noted the instinctiveness of koalas and that they often use Crown land to travel between parks. If that Crown land becomes fragmented with developments such as housing, koalas may get hit by cars or attacked by dogs.¹⁹⁷

- 4.14** Ms Matthes called for koalas to get some of the ‘Crown land pie’ and noted their importance to the economy of the State:

We know—you obviously know as well—that everyone wants a piece of the Crown land pie. So we are hoping that there is a bit of the pie for the koalas. A lot of studies have shown the economic benefits of koalas. Years ago a study showed—it has probably increased by now—that \$1.1 billion came into the Australian economy from foreign tourists wanting to see a koala. We would like to think that they would get a bit of the economic pie, the social pie and the environmental pie. If there are three slices for koalas we will take them.¹⁹⁸

- 4.15** Further, Ms Matthes considered that an audit should be conducted of the environmental returns that Crown land provides to koalas and other species.¹⁹⁹

Proposed legislative reforms

- 4.16** The NSW Government stated that the objects of the new Crown land legislation will recognise the need to preserve and enhance Crown land and also clarify the roles and responsibilities for managing Crown land so that it can be understood by all.²⁰⁰

¹⁹⁵ Evidence, Mr Nick King, President, Environmentally Concerned Citizens of Orange, 2 August 2016, p 44.

¹⁹⁶ Evidence, Ms Maria Matthes, Member, Friends of the Koala Inc., 3 August 2016, p 54.

¹⁹⁷ Evidence, Ms Matthes, 3 August 2016, p 54.

¹⁹⁸ Evidence, Ms Matthes, 3 August 2016, p 54.

¹⁹⁹ Evidence, Ms Matthes, 3 August 2016, p 58.

²⁰⁰ Submission 128, NSW Government, p 15.

- 4.17** The objects of the new legislation will, for the first time, explicitly recognise the need to integrate environmental, social, cultural heritage and economic considerations in decision-making about Crown land. In addition, Crown land will continue to be subject to restrictions on use provided for in environmental and planning legislation which is designed to protect the environmental and heritage values of land.²⁰¹

Committee comment

- 4.18** The committee acknowledges the passion of New South Wales communities to fight for the preservation of Crown land. In many cases this land is important to the social fabric of our society and is of vital importance to the biodiversity of the State.
- 4.19** The committee believes that any stocktake of Crown land must include a review of its local, regional and state environmental significance. The committee received numerous submissions from stakeholders that identified how important Crown land is as an environmental asset in New South Wales. Whether it was the increasingly rare vegetation retained along travelling stock routes that has been protected from clearing for agriculture or precious coastal reserves that have been protected from development, Crown land holds some of the most important environmental assets in the State.
- 4.20** The committee is pleased that the NSW Government will explicitly recognise in the new legislation the need to integrate environmental, social and cultural heritage in decision-making about Crown land. However, we are concerned that this alone may not be effective in promoting the environmental and social importance of Crown land. Therefore, we urge the government to ensure it places these vital considerations at the forefront of its policies and management practices.

Recommendation 11

That the NSW Government, when implementing the stocktake of Crown land in New South Wales at recommendation 9, must consider an audit of its ecological value including its local, regional and state environmental significance.

Community consultation

- 4.21** Many inquiry participants expressed concern to the committee about the inadequate level of community consultation regarding the management, commercial use and disposal of Crown land. This section will identify these concerns as well as discuss the need for meaningful consultation.

²⁰¹ Submission 128, NSW Government, p 17.

Meaningful consultation

- 4.22** An ongoing theme throughout the inquiry was participants stating that there needs to be ‘meaningful’ community consultation.²⁰²
- 4.23** Mr Jon Hillman, Vice President, North Parramatta Residents Action Group argued that a fundamental principle of Crown land management is that consultation must be genuine. He contended that ‘the greatest flaw at the moment is that so-called consultation is merely a tokenistic and tick-the-box consultation, and it is an abject failure’. He called for specific requirements for consultation to be drafted and for the appointment of a genuine, independent facilitator of consultation.²⁰³ Dr Sweeney agreed with these views and noted there is a strong perception in the community that consultation is little more than ‘lip-service’.²⁰⁴
- 4.24** Crown Land Our Land stated that the community has merely been tolerated, but their views ignored:
- Each in his/her own way over recent years has tried to give input, or contribute to consultation, or tried to stop a low-rent rort, a sell-off, or sell-out for commercial use. It’s also because in almost every case we’ve been rebuffed, perhaps tolerated-but-ignored - but mostly, made to feel irrelevant or powerless against the powers-that-be.²⁰⁵
- 4.25** Ms Leone Bolt, Member, Brunswick Heads Progress Association, was of the view that meaningful consultation for plans of management should mean that consultation occurs before the plan is put together.
- [It] would mean that the community is consulted in the planning stages before any plan is put together, to have input and to give feedback. ... They should come and ask us to meet with them or have discussions. All the consultation we have had has, pretty much, been after the fact.²⁰⁶
- 4.26** She explained why it was so important to consult with the community, as they are the people who love the area and want to see it prosper:
- We are the people who love our town. We have the best interests and we might often have the best ideas. There is nothing to be afraid of. We want the best for our town. I just do not believe that it is right to come in and to try to force some cookie-cutter solution on our town. It will not work.²⁰⁷
- 4.27** Ms Bolt described one instance where the consultation process by the trustee, North Coast Holiday Parks, consisted of circulating glossy brochures which said they were giving money to

²⁰² See for example Submission 77, Sandy Point Progress Association, p 2; Supplementary submission 87a, Brunswick Heads Progress Association, p 1.

²⁰³ Evidence, Mr Jon Hillman, Vice President, North Parramatta Residents Action Group, 15 August 2016, p 42.

²⁰⁴ Evidence, Dr Sweeney, 15 August 2016, p 42.

²⁰⁵ Submission 149, Crown Land Our Land, p 22.

²⁰⁶ Evidence, Ms Leone Bolt, Member, Brunswick Heads Progress Association, 3 August 2016, p 29.

²⁰⁷ Evidence, Ms Bolt, 3 August 2016, p 29.

the surf club and supporting the town, but there was ‘no information whatsoever on what was happening, when it was happening [and] the bulk and scale of what was happening’.²⁰⁸

- 4.28** Mr John Dunn, President, Brunswick Heads Progress Association, provided another example where the department primarily consulted with a select group of local businesses before consulting with the broader community, and even then the methods used to promote public awareness were minimal:

I can give you a very concrete example of that. There is another involvement of Crown Lands with our boat harbour, which has a master plan that is yet to be approved. The process for that was that the relevant part of Crown Lands and the Department of Primary Industries came and consulted with the community, but it was with select stakeholder groups. They met with the fishing club, the yachties, the marine. ... They met with the Chamber of Commerce, but they did not meet with any of the residents. Most of the residents in town had no idea that any of this was going on. We were invited to subsequent meetings. We were not at the first couple. When we found out about it, it was up to the progress association to letter drop the town, put notifications up. We approached primary industries and suggested that they put ads in the local papers so people know.²⁰⁹

- 4.29** Similarly, Mr Craig Zerk, Member, Ballina Chamber of Commerce, explained that the lack of community consultation with key stakeholders at Lighthouse Beach almost resulted in the installment of an ineffective shark barrier on Crown land:

I know that Department of Primary Industries will say ... [t]hey did do consultation but they obviously did not reach out to the surfers. They invited a representative from one of the board-riding clubs but there were certain meetings that he could not come up to. They prepared a risk management plan without consulting surfers, which is just ridiculous. Now, after getting bits and pieces of comments from surfers, they have come to the conclusion that this barrier represents a high risk to surfers but that with mitigation measures in place they could reduce that to a moderate risk. All the surfers say, “What is the point of having something that is a moderate risk when the risk of shark attacks is minimal or really low?” How that outcome happened, I do not know.²¹⁰

- 4.30** Sandy Point Progress Association argued that the existing guidelines relating to community consultation are inadequate and that ‘stringent guidelines’ need to be put in place that detail what community consultation actually involves. In addition, the association stated that effective measures need to be in place, so if the guidelines are not followed, any decision should be rescinded and submitted again for the community’s consideration.²¹¹

- 4.31** Ms Bev Smiles, Secretary, Central West Environment Council contended that the current process of public exhibition is ineffective as it regularly only involves a single advert in a local paper.²¹² Mr Garry Kelson, Chair, Huskisson Wollamia Community Voice argued that it

²⁰⁸ Evidence, Ms Bolt, 3 August 2016, p 30.

²⁰⁹ Evidence, Mr John Dunn, President, Brunswick Heads Progress Association, 3 August 2016, p 29.

²¹⁰ Evidence, Mr Craig Zerk, Member, Ballina Chamber of Commerce, 3 August 2016, p 42.

²¹¹ Submission 77, Sandy Point Progress Association, pp 2-3.

²¹² Evidence, Ms Bev Smiles, Secretary, Central West Environment Council, 2 August 2016, p 41.

wasn't good enough for community engagement to merely be about notification, it must be a dialogue where the consent of the local community is sought.²¹³

- 4.32** Mr Kelson was concerned that too many local councils 'interpret trustee management as de facto ownership' and noted an example where the community found out by reading an unrelated council draft plan that there is a long-term goal to sell off community centres located on Crown land and centralise them into a common facility. He argued that the legislation needs to protect the community from 'potential ambush' through strong notification of consent processes.²¹⁴
- 4.33** Greenwich Community Association also noted that many local governments interpret trustee management with de facto ownership.²¹⁵ It explained that while councils may choose to treat Crown land as their own land as it makes life less complicated, Crown land is a community asset and the community should be offered and take up the opportunity to be more involved in its management to ensure that it remains in public ownership.²¹⁶
- 4.34** Save Collingwood Beach noted that there are limited avenues of appeal open to communities concerned about perceived Crown land mismanagement. In particular, for Save Collingwood Beach it is unclear which Minister carries ultimate responsibility for coastal Crown reserve protection, as neither the Minister for Lands and Water, the Minister for Planning or the Minister for the Environment have assisted with the matter and all have devolved responsibility back to the local council.²¹⁷
- 4.35** Crown Land Our Land also stated that once a decision is made there is no independent arbiter, tribunal or judge to challenge or appeal Crown land decisions.²¹⁸
- 4.36** For this reason, Friends of Trumper Park contended that an independent authority should be appointed so the community can appeal against these decisions:

The *Crown Lands Act* needs to be amended to provide for communities or individual members of the public to have a point of appeal against Crown Land decisions. Currently community groups have spent 1000s of hours and 1000s of dollars attempting to find out what has happened to their public land. In many cases the *Crown Lands Act* has not been complied with. We need to be able to have these matters investigated by an Ombudsman or other independent authority.²¹⁹

- 4.37** Ms Bolt insisted that any appeals mechanism for plans of management need to be before sign-off by the Minister.²²⁰

²¹³ Evidence, Mr Garry Kelson, Chair, Huskisson Wollamia Community Voice, 1 August 2016, pp 30-31.

²¹⁴ Evidence, Mr Kelson, 1 August 2016, p 31.

²¹⁵ Submission 146, Greenwich Community Association, p 8; Submission 107, Huskisson Woollamia Community Voice Inc, p 1.

²¹⁶ Submission 146, Greenwich Community Association, p 8.

²¹⁷ Submission 121, Save Collingwood Beach, pp 4-5.

²¹⁸ Submission 149, Crown Land Our Land, p 26.

²¹⁹ Submission 260, Friends of Trumper Park, p 13.

²²⁰ Evidence, Ms Bolt, 3 August 2016, p 30.

- 4.38** Regarding consultation, a number of inquiry participants alternatively noted that often the problem isn't that there is a lack of meaningful consultation; it is that a minority of the community are not happy with the outcome. Mr Paul Hickey, General Manager, Ballina Shire Council, Northern Rivers Regional Organisation of Councils explained this issue:

We think that generally the consultation was fairly good but the issue is that people do not agree with the outcomes. People say it has been poor consultation when they do not get the outcome they may agree with. I find it is probably good consultation but it is about trying to balance all that feedback you get. Crown land is very topical—lots of interest. Trying to get the right balance in a decision is not an easy process. To be fair, you often get criticised from some parties if you make a decision, so in the end it is a difficult one.²²¹

- 4.39** Mr Craig Deasey, General Manager, Dungog Shire Council agreed with these views, but noted people sometimes miss out on the consultation process for personal reasons, as other commitments get in the way:

It is a difficult one in the context of the broader community. However, you endeavor to promote the hearings, inquiries or consultation processes around Crown lands, you always end up with only a very small active minority of people who become involved. It is unfortunate because in the greater scheme of things, from my experience, many people could have input into the process who miss the boat. That is mainly because of their own working lives and their circumstances.²²²

- 4.40** Mr Ray Karam, Member, Ballina Chamber of Commerce also supported this opinion, but noted the problem with online consultation, as it is hard to gauge how invested the individuals are in the consultation process:

I take your point with the croquet, five people in a community might not want it and they put letters everywhere and all of a sudden it seems like there is a huge thing and we go, "Oh we can't have this". Again, we need to look at who it is and how it is and if it is identified would they live in the area? ... If you jump online now you can actually vote for something from overseas and you are not actually impacted, you can just take exception to something because you lived there ... some time ago—and you go, "We don't want that there". Boom, boom, boom and all of a sudden something gets knocked on the head that the community wanted. I don't know how that framework works but we need to open up, we need to communicate differently.²²³

Local government views on consultation

- 4.41** Mr Roger Stephan, Chief Executive Officer, Strategic Services Australia Ltd, Hunter Joint Organisation of Councils, noted that very few people read public notices as prescribed by the Act and that 'the mechanisms of government have not caught up with communication

²²¹ Evidence, Mr Paul Hickey, General Manager, Ballina Shire Council, Northern Rivers Regional Organisation of Councils, 3 August 2016, p 5.

²²² Evidence, Mr Craig Deasey, General Manager, Dungog Shire Council, 8 August 2016, p 2.

²²³ Evidence, Mr Ray Karam, Member, Ballina Chamber of Commerce, 3 August 2016, p 41.

processes as they now exist'. He supported the consultation procedures in the *Local Government Act* as it requires councils to demonstrate comprehensive community consultation.²²⁴

- 4.42** Ms Samantha Urquhart, Manager, Property Division, City of Sydney Council stated that public consultation should be done well. Although she conceded that 'there may be councils out there that do not do it well and it should be enforced. The legislation prescribes it for a reason'.²²⁵
- 4.43** Local councils generally considered that the appropriate length of the consultation period depends on the individual asset and the needs and expectations of the local community and user groups.²²⁶
- 4.44** Ballina Shire Council deemed that periods for engagement with the community should be determined on a case-by-case basis having regard for the relevant issues, stakeholders, resources and intended project outcomes. It suggested that a minimum of 28 days is a reasonable starting point, which is consistent with the approach for other planning and policy processes undertaken by local government.²²⁷
- 4.45** Canberra Region Joint Organisation noted that while public exhibition and feedback for a plan of management can be done in 'the standard 28 days plus 14 days for lodging of submissions, true consultation and community engagement seeking genuine input ... requires more time'. In some instances, consultation is part of developing options for the land, then selecting a preferred option before publicly exhibiting the plan. In other cases, consultation could be limited to only the public exhibition of the plan. Consultation should therefore be tailored to the particular circumstances not a 'one-size-fits-all' approach.²²⁸
- 4.46** Mr Ross Davies, Coordinator, Contracts and Property Services, Lismore City Council, noted that Lismore's approach is that more consultation is better. He explained that the council advertises in both in the local paper and its local newsletter, as well as through social media and media releases. Mr Davies argued that 'we go hard at anything that we think is going to be controversial, and disposal of Crown land is always controversial. We go as hard as we can'.²²⁹
- 4.47** Mr Craig Deasey, General Manager, Dungog Shire Council noted that processes under the *Local Government Act* are more prescriptive than under Crown land legislation, stating that from a 'Crown Lands perspective, it is normally a notice in the *Sydney Morning Herald*, the *Government Gazette* and a local paper and that is about the extent of the consultation or exhibition of whatever is proposed, so it does lack'.²³⁰

²²⁴ Evidence, Mr Roger Stephan, Chief Executive Officer, Strategic Services Australia Ltd, Hunter Joint Organisation of Councils, 8 August 2016, p 3.

²²⁵ Evidence, Ms Samantha Urquhart, Manager, Property Division, City of Sydney Council, 29 July 2016, p 29.

²²⁶ Answers to questions of notice, Local Government NSW, received 29 August 2016, pp 2-3.

²²⁷ Answers to questions on notice, Ballina Shire Council, received 24 August 2016, p 2.

²²⁸ Answers to questions on notice, Canberra Region Joint Organisation, 25 August 2016, pp 3-4.

²²⁹ Evidence, Mr Ross Davies, Coordinator, Contracts and Property Services, Lismore City Council, Northern Rivers Regional Organisation of Councils, 3 August 2016, p 5.

²³⁰ Evidence, Mr Deasey, 8 August 2016, p 2.

- 4.48** Dungog Shire Council advocated for longer periods of consultation, with a minimum of 60 days, and if complex, at least 120 days.²³¹ It also considered that ‘a web presence which can allow individuals to respond online as they progress through their review of the work would be advantageous, but it should not be the only consultation tool’.²³²

NSW Government community engagement strategy

- 4.49** The NSW Government told the committee it recognised that community involvement is essential to the ongoing management of Crown reserves. The Hon Niall Blair MLC, Minister for Primary Industries, Minister for Lands and Water explained that the current legislative requirement for advertising ‘represents a very old-school approach to consultation’ and informed the committee that new Crown land legislation will require a community engagement strategy to be prepared for actions that would affect public use of land, such as proposed sales or long-term leases. The new community engagement strategy will enable more ‘meaningful and tailored input so that decisions of the greatest interest to the public will have the greatest level of engagement’.²³³ The strategy will focus on meaningful community consultation, including community meetings where appropriate.²³⁴
- 4.50** Mr David Clarke, Group Director Governance and Strategy, Department of Industry – Lands stated that under the proposed legislation, the Minister will have the responsibility to approve the community engagement strategy and the department will be responsible for complying with the strategy. It will outline the principles, processes and requirements for the various types of activities and dealings that happen on Crown land so the community has a clear understanding of how and when they can be engaged. The strategy will also include specific information for different processes such as a plan of management or the sale of Crown land.²³⁵

Case studies of community concerns – management of Crown land

- 4.51** The committee received a large amount of evidence regarding a range of management issues concerning Crown land throughout the State. Claims have been levelled at individual trusts, local councils as reserve managers and the Department of Industry – Lands for its hands-off approach.
- 4.52** While it is not the role of the committee to investigate claims of unsatisfactory management of Crown land, this section will identify some key themes through three case studies regarding the Bondi Pavilion, King Edward Headland Reserve and the event ‘Huntfest’ in Eurobodalla.

²³¹ Answers to questions on notice, Dungog Shire Council, received 29 August 2016, p 6.

²³² Answers to questions on notice, Dungog Shire Council, p 6.

²³³ Evidence, The Hon Niall Blair MLC, Minister for Primary Industries, Lands and Water, 29 July 2016, p 33.

²³⁴ Submission 128, NSW Government, p 16.

²³⁵ Evidence, Mr David Clarke, Group Director Governance and Strategy, Department of Industry—Lands, 29 July 2016, p 38; Submission 128, NSW Government, pp 16-17.

Case study – Bondi Pavilion²³⁶

Bondi Pavilion is located in Bondi Park and is an iconic cultural building which contributes to the unique heritage of Bondi Beach. The pavilion is home to countless activities, including dance, karate, pottery, soccer and yoga classes and houses a unique 220 seat theatre.²³⁷

The park is governed by the Bondi Park Reserve Trust. Waverley Council manages the affairs of the trust and is responsible for the care, control and management of the park on behalf of the Minister for Lands and Water. Waverley Council prepared a plan of management for the park in 2012 and adopted it in November 2014.²³⁸ Save Bondi Pavilion thought this plan had been approved by the Minister for Lands and Water.²³⁹

In April 2016, Waverley Council stated its intention to spend \$38 million on the Bondi Pavilion Upgrade Project. Originally the project was estimated to cost \$9 million and was anticipated to provide for much needed maintenance, restoration and enhancement of the facilities at the pavilion. This was consistent with the plan of management, was based on community consultation and enjoyed widespread support.²⁴⁰

Save Bondi Pavilion noted there is significant community concern that the \$38 million proposal fundamentally changes the purpose of the building from a community centre to a commercial facility. Further, the project is not consistent with the objectives outlined in the Bondi Pavilion Purpose Statement contained in the plan of management, particularly the objective relating to the pavilion being 'the centre of community life, accommodating a vibrant mix of cultural, community and commercial uses'.²⁴¹

Ms Kilty O'Brien, Convener, Save Bondi Pavilion explained that three plans were provided by the architect to Waverly Council in-confidence, with the council choosing the most expensive option:

In 2015 after the architects are awarded the tender they come back to council with three plans... One is about \$10 million to \$14 million, one is in the early \$20 millions and one is at \$38 million. The first plan, \$10 million to \$14 million, delivers a repair and a restore of the building. The middle plan slightly changes the layout of the top floor. The \$38 million plan totally commercialises the top floor and largely locks community space out of the building.²⁴²

²³⁶ See for example: Submission 5, Ms Julia Meare; Submission 7, Miss Mandy Dodds; Submission 10, Ms Caroline Kearney; Submission 11, Mr Matthew Tilbury; Submission 13, Mr Tim Murray; Submission 16, Mr Lewis Hanley; Submission 22, Ms Ann Edvall; Submission 23, Ms Lea Hill; Submission 26, Ms Camilla Hamilford; Submission 27, Miss Monica Lawler; Submission 32, Mr John Macarthur; Submission 33, Mr Julian Porter; Submission 60, Save Bondi Pavilion; Submission 78, Mr Peter Broderick; Submission 178, Mr Graeme Batterbury; Submission 234, Ms Nizza Siano; Submission 291, Mrs Jane Broderick.

²³⁷ Evidence, Ms Kilty O'Brien, Convener, Save Bondi Pavilion, 15 August 2016, p 33.

²³⁸ Submission 60, Save Bondi Pavilion, p 1.

²³⁹ Submission 60, Save Bondi Pavilion, p 1.

²⁴⁰ Submission 60, Save Bondi Pavilion, p 2.

²⁴¹ Submission 60, Save Bondi Pavilion, p 2.

²⁴² Evidence, Ms O'Brien, 15 August 2016, p 37.

Ms O'Brien contended that the council should have been transparent with the community from the start regarding the three plans:

From the moment they put Bondi Pavilion up for community consultation the business plan should be on the table. If there are alternate plans they should be on the table and the community should have access to these and they should be able to discuss them openly.²⁴³

Mr Peter Winkler, Member, Save Bondi Pavilion confirmed that the community group is not opposed to businesses operating in the pavilion, but stated there needs to be a balance:

There are cafes and restaurants all across the front of the pavilion, on the beachfront, throughout the entire thing. We are absolutely not opposed to that kind of thing, it is just that it is a dual-purpose building; it provides that service to the general public or tourists who are going to the beach but it also is the town hall of Bondi. What we are talking about is the rest of the spaces that are now being earmarked for further commercial development.²⁴⁴

Contrary to what Save Bondi Pavilion believed, the Minister for Lands and Water has not approved the final plan of management. In fact, the plan has not been submitted to the Minister for approval, and because of this, the Minister indicated that 'no opinion has been formed if the proposal is consistent with the plan'.²⁴⁵

Case study – King Edward Headland Reserve

King Edward Headland Reserve sits within King Edward Park in Newcastle. In 2005, the then Minister dedicated the reserve for the purpose of public recreation. The King Edward Headland Reserve Trust was then established with the Lands Administration Ministerial Corporation appointed to administer the affairs of the trust.²⁴⁶

In 2007 a plan of management was adopted following public consultation. The plan included approval for a commercial development on the site even though there was some community opposition to this proposal.²⁴⁷

In December 2010 a development application for a large function centre on the site of a former bowling club was lodged with Newcastle City Council and publicly advertised. This was a much larger development than the plan of management proposed and allowed little public access to the area.²⁴⁸

The community group Friends of King Edward Park formed in 2011 to oppose the proposal and to promote and protect the historic values and public recreational purposes of the park. There have been three court cases relating to this matter since then, with the substantive case occurring in 2014/15. Justice Sheahan handed down his decision in the Land and Environment Court in May 2015 finding in favour of the Friends of King Edward Park and stating that the plan of management and development application were invalid. He also 'confirmed the Rutledge Principle which states that land can be said to

²⁴³ Evidence, Ms O'Brien, 15 August 2016, p 38.

²⁴⁴ Evidence, Mr Peter Winkler, Member, Save Bondi Pavilion, 15 August 2016, p 39.

²⁴⁵ Answers to questions of notice, Minister for Primary Industries, Lands and Water, received 29 August 2016, p 32.

²⁴⁶ Submission 117, Friends of King Edward Park, p 3.

²⁴⁷ Submission 117, Friends of King Edward Park, p 4.

²⁴⁸ Submission 117, Friends of King Edward Park, p 4.

be used for public recreation only if it is open to the public as of right and is not a source of private profit'.²⁴⁹

Friends of King Edward Park noted that in 2005 the NSW Government fenced off the Headland Reserve after the derelict bowling club on the site was demolished. The fence however still remains in place, well over a year after Justice Sheahan's decision. Friends of King Edward Park assert that the public should now be entitled to access the Headland Reserve.²⁵⁰

Mr Kim Ostringa, President, Friends of King Edward Park informed the committee that initially they were told the wiring was still in place because the area was unsafe, as the demolition was incomplete. However, he asserted that documents supplied under a GIPA request 'reveal that there is a very strong legal relationship between the government and the developer in the form of a development agreement' which is still alive and well 'in spite of the fact that the development application and the plan of management was declared invalid and of no effect'.²⁵¹

Friends of King Edward Park declared that many consider this a landmark decision in favour of protecting Crown land from development, although it asserted that the Minister for Lands and Water has downplayed the significance of the decision.²⁵²

Case study – 'Huntfest' arms fairs in Eurobodalla

In 2012, the Eurobodalla Shire Council granted approval for the South Coast Hunters Club to conduct an event called Huntfest, involving hunting, camping, a photo/DVD competition and food stalls on Crown land each June long weekend for five years. The community group Stop Arms Fairs in Eurobodalla (SAFE) formed to oppose the council's decision.²⁵³

In 2014, the council approved a variation to the event to cover the display and sale of firearms and ammunition, an air rifle range, hunting simulators, archery courses and animal skinning. In 2015 the event was conducted over the whole of NATA Oval and Southern Bluewater Reserve, which is a much larger area than was authorised in 2012.²⁵⁴

SAFE received advice from the NSW Environmental Defenders' Office (EDO) that the location of the event in 2015 is zoned for public recreation. According to the EDO, the only development permitted without consent in this area is environmental protection works. However, in 2016, the council extended the licence for Huntfest from 2018 to 2022 and did not address the issue of the event changing from a photographic competition to an arms fair without a new development consent.²⁵⁵

SAFE argued that Eurobodalla Shire Council has not used its power of control over Crown land to bring benefits to either the Shire or the State. It has also failed to undertake proper community

²⁴⁹ Submission 117, Friends of King Edward Park, p 5.

²⁵⁰ Submission 117, Friends of King Edward Park, p 6.

²⁵¹ Evidence, Mr Kim Ostringa, President, Friends of King Edward Park, 8 August 2016, p 11.

²⁵² Submission 117, Friends of King Edward Park, p 5.

²⁵³ Submission 118, Stop Arms Fairs in Eurobadalla, p 2.

²⁵⁴ Submission 118, Stop Arms Fairs in Eurobadalla, p 2.

²⁵⁵ Submission 118, Stop Arms Fairs in Eurobadalla, p 3.

consultation in what the council itself has labelled commercial activity regarding the use of Crown land designated for public recreation.²⁵⁶

Ms Louise Webb, Committee member, Stop Arms Fairs in Eurobodalla stated there has been failures by the council and the Minister to uphold the law:

That flaw is the failure of, first, the council, and, secondly, the Minister with responsibility for Crown land to adhere to the requirements clearly set out in the reserve trust handbook. Despite SAFE's repeated, detailed advice to Minister Blair and his advisors about what was happening in Eurobodalla, we received what was clearly a standard response letter which did not attempt to address the points we had raised. There is no point in having laws, regulations and guidelines if they can be ignored at will.²⁵⁷

In 2014 the council consulted by running an online submission process about the variation of the licence from primarily a photographic competition to an arms fair. The council received 204 submissions with 81 per cent expressing opposition to the proposal. Ms Webb questioned what the point of consulting the local community was if the council was not going to act according to their expressed wishes. In addition, there was no consultation in the lead-up to the council's latest decision to extend the HuntFest licence until 2022.²⁵⁸

Mr Rob Addison, Property Manager, Eurobodalla Shire Council, although noting that many of the submissions to the council opposed the 2014 application for the arms fair, stated that 'there was no referendum in the shire' to determine there was widespread opposition. He also believed 'that everything was done in accordance with procedures and the correct processes'.²⁵⁹

Further Eurobodalla Shire Council informed the committee that the Huntfest licence was granted in accordance with the council's Code of Practice entitled *Licensing of Council controlled public reserves and associated buildings* which had been developed in consultation with the Department of Industry – Lands.²⁶⁰

Reforms to improve governance of Crown land

- 4.53** The NSW Government indicated that the Department of Industry – Lands is developing a series of improvements to the governance and oversight of reserves to ensure their effective ongoing management.
- 4.54** The new legislation will include detailed governance provisions that will recognise that managers of Crown land reserves 'are stewards of that land and that their care, control and management powers need to be exercised appropriately to ensure land is preserved and enhanced'.²⁶¹

²⁵⁶ Evidence, Ms Louise Webb, Committee member, Stop Arms Fairs in Eurobodalla, 1 August 2016, p 46.

²⁵⁷ Evidence, Ms Webb, 1 August 2016, p 46.

²⁵⁸ Evidence, Ms Webb, 1 August 2016, p 47.

²⁵⁹ Evidence, Mr Rob Addison, Property Manager, Eurobodalla Shire Council, 1 August 2016, p 18.

²⁶⁰ Answers to questions on notice, Eurobodalla Shire Council, 29 August 2016, p 1.

²⁶¹ Submission 128, NSW Government, p 17.

- 4.55** The NSW Government explained that the legislation will take a risk based approach to ministerial oversight, providing incentives for managers of Crown reserves to develop enhanced capacity and governance abilities. Ministerial oversight of Crown land will continue, with new powers to ensure that there can be quick and appropriate responses to any issues on Crown land. In addition to broad auditing powers, the Minister will be able to make rules that will apply to one, some or all reserves.²⁶²
- 4.56** The proposed legislation will also include a bigger ‘compliance toolbox’ to enable action to be taken to more easily protect Crown land and to remediate any damage. This will include provisions for remediation and removal orders, and stop-work orders. In addition, appropriate offences and penalties for damage to and unlawful use of Crown land will be included, as well as more effective powers of investigation for authorised officers and more appropriate provisions for commencing court action.²⁶³

Auditor-General report findings

- 4.57** In September 2016 the NSW Auditor-General released a report regarding the sale and lease of Crown land. The report was critical of a number of management practices by the department of Industry – Lands and made a range of short and longer term recommendations to be implemented periodically by March, July and December 2017.²⁶⁴
- 4.58** One primary concern is regarding the lack of clear and up-to-date policies for staff relating to Crown land sales and leases:
- The department does not provide staff with clear and up-to-date policies and guidance to make decisions about Crown land sales or leasing. More than 1,300 pages of policies and guidance are currently in circulation, many of which have not been updated in the last decade. This exposes the department to risk if inconsistent decisions are made by staff. We found multiple examples where policies and guidelines have been applied inconsistently.²⁶⁵
- 4.59** In addition, staff who make decisions about the sale and lease of Crown land have only recently been trained in basic aspects of administrative law such as ethical behaviour, conflicts of interest and better decision-making.²⁶⁶
- 4.60** Further, the department does not have formal post-decision reviews or quality assurance systems for Crown land sale and leasing. It noted that other areas of the department of Industry – Lands have stronger systems in place which could provide a model for improvement.²⁶⁷
- 4.61** The Auditor-General also raised concern that many leases are only reviewed when they are due for renewal and that there has been no systematic checking of compliance with lease

²⁶² Submission 128, NSW Government, p 17.

²⁶³ Submission 128, NSW Government, p 17.

²⁶⁴ Audit Office of New South Wales, *Sale and lease of Crown land*, 2016, p 4.

²⁶⁵ Audit Office of New South Wales, *Sale and lease of Crown land*, 2016, p 3.

²⁶⁶ Audit Office of New South Wales, *Sale and lease of Crown land*, 2016, p 3.

²⁶⁷ Audit Office of New South Wales, *Sale and lease of Crown land*, 2016, p 3.

conditions during the term of a lease. The result of this is that the department has limited knowledge of whether tenants are complying with lease conditions. The Auditor-General noted that an audit process was introduced in July 2016 to address this issue.²⁶⁸

- 4.62** Regarding community consultation, the Auditor-General found that the department focused on notification rather than meaningful engagement:

The department complies with statutory requirements to notify the public when it plans to sell or lease Crown land. However, it often does not provide opportunities for people to understand and have a say in decisions. Its approach to community consultation has been focused on notification, rather than meaningful engagement. More recently, the department has been more active in consulting with community members for selected high profile cases. Applying this more broadly and consistently would help it to address community concerns about the management of Crown land.²⁶⁹

- 4.63** In addition, the department's decision-making processes for selling or leasing Crown land are not clear to the general public. The Auditor-General found that 97 per cent of leases and 50 per cent of sales were directly negotiated over the past four years.²⁷⁰

- 4.64** The report also noted that while the department's strategic objective is consistent with principles of Crown land management; its business plan has a more prominent focus on economic and financial outcomes rather than social and environmental outcomes.²⁷¹

- 4.65** The Minister indicated that all of the Auditor-General's recommendations were sensible and noted that the Department of Industry – Lands has agreed to act on all of the recommendations.²⁷²

Committee comment

- 4.66** The committee is concerned with the lack of consultation and involvement of the community in decision making regarding Crown land. This is why in chapter 2 we recommended that new Crown land legislation include consultation methods for plans of management based on provisions in the *Local Government Act 1993*.

- 4.67** Our views about the department not engaging in meaningful consultation also reflect the concerns raised by the Auditor-General in the recent report into the sale and leasing of Crown land. The committee is pleased however with the current Minister for Lands and Water's statements that he would act on the Auditor-General's recommendations and that the proposed new Crown lands legislation will incorporate a community consultation strategy and will enact a range of improvements to the governance of Crown land.

²⁶⁸ Audit Office of New South Wales, *Sale and lease of Crown land*, 2016, p 3.

²⁶⁹ Audit Office of New South Wales, *Sale and lease of Crown land*, 2016, p 3.

²⁷⁰ Audit Office of New South Wales, *Sale and lease of Crown land*, 2016, pp 3-4.

²⁷¹ Audit Office of New South Wales, *Sale and lease of Crown land*, 2016, p 4.

²⁷² *Hansard*, NSW Legislative Council, 15 September 2016, p 14.

- 4.68** To ensure the Department of Industry – Lands remains on track with implementing the key recommendations made by the Auditor-General, the committee recommends that the department report to us in March, July and December 2017 regarding its progress. We will review the information received from the department and may hold a further inquiry if considered necessary.

Recommendation 12

That the Department of Industry – Lands report to General Purpose Standing Committee No. 6 in March, July and December 2017 regarding the implementation of recommendations made by the Auditor-General in the report entitled ‘Sale and lease of Crown land’, published 8 September 2016.

- 4.69** The committee is also of the view that the management of Crown land requires an appeals mechanism, adjudicated by an independent arbiter, and recommends that the Department of Industry – Lands considers the feasibility of implementing such a process.

Recommendation 13

That the Department of Industry – Lands explore the feasibility of including an appeals mechanism, adjudicated by an independent arbiter, for decisions regarding Crown land plans of management, sales and leases.

Chapter 5 Crown roads and travelling stock routes and reserves

This chapter examines Crown roads and travelling stock routes and reserves. It considers the disposal of Crown roads and the NSW Government's proposal to devolve roads to local councils. The chapter will also explore issues regarding the management of travelling stock routes and reserves.

Crown roads

- 5.1** The Department of Industry – Lands administers over 500,000 hectares of Crown roads worth around \$300-\$400 million. Crown roads provide lawful access to many privately owned and leasehold lands and are part of the State's public road network. However, the majority of these roads are referred to as 'paper roads' as they have not been formed or constructed.²⁷³
- 5.2** The Hon Niall Blair, Minister for Primary Industries and Minister for Lands and Water explained that many Crown roads are 'not required for access by the general public and exist as lines on maps'.²⁷⁴

Maintaining Crown roads

- 5.3** Department of Industry - Lands representatives told the committee that the department is not funded to construct or maintain roads,²⁷⁵ with Ms Alison Stone, Deputy Director General, Department of Industry - Lands stating that the department is 'not a road authority'.²⁷⁶
- 5.4** Mr David McPherson, Group Director Regional Services, Department of Industry – Lands explained that the department often provides approvals to landholders to maintain roads, fill potholes and keep them trafficable. However, if there are proposals to upgrade or construct roads the department usually transfers the road to the local council, as it has the ability to levy rates and reach agreements with landholders to fund the ongoing maintenance.²⁷⁷
- 5.5** Mr McPherson noted that the department does 'not force roads on councils generally', it is only where they are willing to accept transfer. Alternatively, the department can reach agreements with landholders so they contribute towards the cost of construction and maintenance of the road.²⁷⁸
- 5.6** Mr Andrew Dundas, a property owner, discussed the burden for individuals to maintain or repair a Crown road:

²⁷³ Submission 128, NSW Government, p 10.

²⁷⁴ Evidence, The Hon Niall Blair MLC, Minister for Primary Industries, Minister for Lands and Water, 15 August 2016, p 73.

²⁷⁵ Evidence, Mr David McPherson, Group Director Regional Services, Department of Industry - Lands, 29 July 2016, p 36.

²⁷⁶ Evidence, Ms Alison Stone, Deputy Director General, Department of Industry - Lands, 29 July 2016, p 37.

²⁷⁷ Evidence, Mr McPherson, 29 July 2016, p 36.

²⁷⁸ Evidence, Mr McPherson, 29 July 2016, p 37.

As the cost is high to repair these roads and local councils avoid any involvement. ... My road was documented with the lands council of Orange, compensation paid, surveyed, and left to me to maintain. At considerable cost this access is available to the general public for use. ... My concern is that being a dirt road with access to a main road the public can access at any time and with the modern times that we have now many 4WD vehicles access these lands in wet weather and destroy this road. Leaving only me to repair this road at my cost for the public to use and abuse.²⁷⁹

Roads closure program

- 5.7** Since 2004 the NSW Government has administered a roads closure program for Crown roads that are not required for public or legal access to freehold land. The program enables landholders to apply and purchase roads adjoining their freehold property through a process of closure and disposal. This allows adjoining landholders to consolidate their holdings and provides security of tenure over land that is often fenced in within their properties.²⁸⁰
- 5.8** The Minister noted that approximately 8,000 applications have been completed since April 2011, generating revenue of more than \$81 million for the NSW Government. Over 6,500 applications are awaiting completion and 550 new applications are received each year. The Department of Industry – Lands aims to complete 1,700 applications per year.²⁸¹
- 5.9** In 2012 the then Minister for Regional Infrastructure and Services announced that he had directed Crown Lands (part of the then Department of Primary Industries) to accelerate the processing of road closures in order to clear the backlog of applications.²⁸² Ms Stone indicated that road closures are now handled in clusters, and this has meant that the number of outstanding applications has dropped substantially. The department hopes that this number will be less than 1,000 within three to four years.²⁸³
- 5.10** Applications are individually assessed on their merits and are processed on ‘a first-received, first-processed basis’. However, this can be expedited if applicants apply in writing with extenuating circumstances such as a current development application involving a road or deceased estate matters.²⁸⁴
- 5.11** It takes a minimum of seven months to close and sell a Crown road. This timeframe is dictated by the legislative requirements under both the *Roads Act 1993* and the *Crown Lands Act 1989*.
- 5.12** The Minister explained that consultation with adjoining and affected landholders and other authorities is a key part of the process and all proposed road closures are publicly advertised. This consultation aims to assess whether the roads are required for public access to land or

²⁷⁹ Submission 205, Mr Andrew Dundas, p 1.

²⁸⁰ Submission 128, NSW Government, p 10; Evidence, Minister Blair, 15 August 2016, p 73.

²⁸¹ Evidence, Minister Blair, 15 August 2016, p 73.

²⁸² Submission 163, The Recreational Fishing Alliance of NSW, p 4.

²⁸³ Evidence, Ms Alison Stone, Deputy Director General, Department of Industry—Lands, 15 August 2016, p 73.

²⁸⁴ Evidence, Minister Blair, 15 August 2016, p 73.

waterways. Approximately 25 per cent of road closure applications are not approved either due to a requirement for public access, or because the applicant withdrew interest.²⁸⁵

- 5.13** If a Crown road is deemed not to be required for public purposes, it is closed and sold. The Minister stated that this reduces management costs for the State and reduces red tape for affected property owners.²⁸⁶

Issues with the road closure program

- 5.14** Mr Tony Emery, Director, Soilco Pty Limited, is a private landowner who, along with two of his neighbours, wants to purchase paper roads adjoining their properties. These roads are at the front of their properties facing the Shoalhaven River.

- 5.15** He thought the process would take around seven months. However, once the application was made, the department informed him that it could take 12 to 18 months. More recently he was advised verbally that the process was going to take five to six years. Mr Emery was of the view that five to six years was far too long to wait for such a simple process.²⁸⁷

- 5.16** Mr Emery stated that the extended timeframe was due to ‘overwork and the quantity of submissions’ and recommended that the NSW Government ‘streamline the process and employ the number of people required to undertake this within a reasonable timeframe’.²⁸⁸

- 5.17** In contrast to this view, the committee heard evidence from recreational fishing groups such as Recreational Fishing Alliance of NSW and NSW Council of Freshwater Anglers that the sale of Crown roads requires careful consideration, as they provide public access to rivers and streams. Mr Malcolm Poole, Member, Recreational Fishing Alliance of NSW noted that ‘[y]ou have to get to water to get to fish’.²⁸⁹

- 5.18** Mr Poole explained that following discussions with the department there is now a transparent process on the website that the public can engage in to see what Crown roads are coming up for sale, rather than just being advertised in the local paper. He stated that the Recreational Fishing Alliance of NSW currently employs two freshwater access officers (an investment of \$200,000 annually) who, as part of their role, investigate Crown roads and Crown reserves up for public sale to consider whether they should be retained in the public interest. Mr Poole noted that recreational fishers take the loss of access to water seriously, as it is a cumulative loss over time.²⁹⁰

- 5.19** Mr Don Barton, President, NSW Council of Freshwater Anglers was concerned that there is only 28 days for the public to consider each road and ‘it is quite a scramble to do it’.²⁹¹ This is

²⁸⁵ Evidence, Minister Blair, 15 August 2016, p 73.

²⁸⁶ Evidence, Minister Blair, 15 August 2016, p 73.

²⁸⁷ Evidence, Mr Tony Emery, Director, Soilco Pty Limited, 1 August 2016, pp 39-40.

²⁸⁸ Evidence, Mr Emery, 1 August 2016, p 39.

²⁸⁹ Evidence, Mr Malcolm Poole, Member, Recreational Fishing Alliance of NSW, 15 August 2016, p 27.

²⁹⁰ Evidence, Mr Poole, 15 August 2016, p 27.

²⁹¹ Evidence, Mr Don Barton, President, NSW Council of Freshwater Anglers, 15 August 2016, p 27.

in the context that recreational fishers are only just discovering the existence of many Crown roads and now ‘they are [being sold] so fast we can hardly keep up with them’.²⁹²

- 5.20** In addition, Recreational Fishing Alliance of NSW contended that the public often do not know an area is a Crown road due to the actions of landholders:

There is also a lot of potential access that has been concealed over many decades by landholders helping themselves to Crown roads, fencing them in, locking gates, putting up fraudulent signage asserting private property rights and abusing and intimidating members of the public, including anglers, who attempt to use the public land corridor (being a Crown road) to get to the river bank or reserve etc.²⁹³

- 5.21** Mr Barton noted Mr Emery’s case and stated that any Crown land on the border of a river is given serious consideration by fishers, as there is a need to maintain a margin on the river in order to protect the riparian environment.²⁹⁴

- 5.22** In response to the views of recreational fishers, the Minister explained that officers from the Department of Primary Industries – Fisheries and the Department of Industry – Lands work together to ensure that existing angler access is continued. Further, Fisheries staff have assessed more than 13,000 individual roads for closure and requested the retention of 300 roads for fishing purposes.²⁹⁵

- 5.23** Community groups such as the Jervis Bay Regional Alliance and Cumberland Bird Observers Club Inc argued that there has been a lack of transparency around the sale of paper roads.²⁹⁶ Cumberland Bird Observers Club Inc and Duffys Forest Residents Association Inc also stated that it is unclear what consideration has been given to the broader values of paper roads, particularly regarding their recreational access and environmental values.²⁹⁷

Proposed legislative change

- 5.24** The NSW Government announced in its response to the White Paper that it was considering transferring Crown roads to local councils and giving them the power to close roads:

Improvements to deliver effective and efficient management of Crown roads, including transfer of Crown roads to Local Councils and reducing the backlog of road closure applications, will continue to be considered.

²⁹² Evidence, Mr Barton, 15 August 2016, p 25.

²⁹³ Submission 163, The Recreational Fishing Alliance of NSW, p 4.

²⁹⁴ Evidence, Mr Barton, 15 August 2016, p 28.

²⁹⁵ Evidence, The Hon Niall Blair MLC, Minister for Primary Industries, Minister for Lands and Water, 29 July 2016, pp 43-44.

²⁹⁶ Submission 135, Jervis Bay Regional Alliance, p 2; Submission 137, Cumberland Bird Observers Club Inc, p 4.

²⁹⁷ Submission 137, Cumberland Bird Observers Club Inc, p 4.

It is proposed that Councils will be given the power to close roads for which they are the roads authority. This will enable Department of Primary Industries - Lands to focus on the backlog of road closure applications.²⁹⁸

5.25 Local Government NSW indicated that one of its 'big-ticket issues' is that local government is not supportive of the idea of amending the *Roads Act 1993* so that the Minister is no longer a roads authority.²⁹⁹ Ms Donna Rygate, Chief Executive Officer, Local Government NSW, noted that 'councils would be very concerned if by the stroke of a pen the Minister ceased to be a roads authority', as it would involve Crown roads becoming local roads, which councils would then be responsible for maintaining.³⁰⁰

5.26 Mr Shaun McBride, Senior Police Manager, Local Government NSW explained that the question of road management has been a long-running issue for local councils:

It was Crown lands trying to force the responsibility for maintaining their roads onto councils where it had little or no local government significance. It is a cost shifting issue or a responsibility shifting issue. It was forcing unwanted lengths of roads, which were Crown roads in Crown forests and things like that, over to council for the care and maintenance but not giving any financial support to do so. As part of that there have been moves mooted for many years to take Crown lands out of that; to take any responsibility for managing any roads by stopping the Minister responsible from being a roads authority.³⁰¹

5.27 Mr Tim Geyer, Manager Parks and Garden, Queanbeyan-Palerang Regional Council stated that transferring Crown roads to council would be a 'massive impost' and councils would only take on this responsibility with the promise of significant investment.³⁰²

5.28 Lismore City Council expressed its frustration with the length of time it takes the Crown to close roads and stated that this function could be transferred to councils. It also considered that the department should resource this function more adequately to clear the backlog of closure requests.³⁰³

5.29 Central NSW Councils and Orange City Council recommended that all road reserves be transferred to local councils at no cost, as councils are responsible for the planning, construction and maintenance of road infrastructure. They also stated that local government should be responsible for closing roads and indicated that this should only occur once the current backlog has been completed by the department. Orange City Council explained that it would be an 'unfair burden on local government for this backlog to be transferred'.³⁰⁴

²⁹⁸ NSW Department of Industry, Skills and Regional Development, Response to Crown Lands Legislation White Paper: Summary of Issues and Government Response, 2015, p 20.

²⁹⁹ Evidence, Ms Donna Rygate, Chief Executive Officer, Local Government NSW, 29 July 2016, p 50.

³⁰⁰ Evidence, Ms Rygate, 29 July 2016, p 50.

³⁰¹ Evidence, Mr Shaun McBride, Senior Police Manager, Local Government NSW, 29 July 2016, p 50.

³⁰² Evidence, Mr Tim Geyer, Manager Parks and Garden, Queanbeyan-Palerang Regional Council, 1 August 2016, p 14.

³⁰³ Submission 131, Lismore City Council, pp 1-2.

³⁰⁴ Submission 133, Orange City Council, p 2; Submission 225, Central NSW Councils (CENTROC), p 6.

- 5.30** Mr Peter Smith, Director Environment Services, Snowy Monaro Regional Council informed the committee of the 2015 Independent Pricing and Regulatory Tribunal Local Government Regulatory Burden Review which made recommendations regarding streamlining the process for closing roads and reducing the backlog of applications for Crown road closures. Snowy Monaro Regional Council supported these recommendations, but on the basis that council was not left with the financial burden of ongoing maintenance.³⁰⁵
- 5.31** Other participants, such as Mr Russ Pigg, General Manager, Shoalhaven City Council raised the important issue of noxious weed controls and the cost to council: 'There are about 800 kilometres of paper Crown roads in the Shoalhaven alone. If they were to be transferred to council, then obviously there is cost in noxious weed controls'.³⁰⁶
- 5.32** Ms Jenny Bennett, Executive Officer, Central NSW Councils discussed the problem of funding, particularly for councils responsible for managing large areas:
- We would prefer not to have a greater administrative burden on councils. ...If we can do that as swiftly and as reasonably as possible without councils having to pick up most of the tab, that would be good. I think Lachlan Shire has the largest number of roads in New South Wales. You must consider a council's capacity to be able to fund that type of activity. It is the bigger council areas that face the greater challenges. The Government should be mindful of considering those councils that are least able to manage.³⁰⁷
- 5.33** Mr Ashely Wielinga, General Manager, Warren Shire Council informed the committee that the road closure process will be costly to the council as they will require outside legal assistance.³⁰⁸
- 5.34** Kyogle Council supported the proposed reforms, but on the basis that there is no involvement of any NSW Government agency in the subsequent closure, lease, or opening of public roads, with the exception of the Roads and Maritime Services in the case of classified roads. Kyogle Council also required that all existing Crown road lease agreements and the associated revenue streams be transferred to council as the relevant road authority.³⁰⁹

Committee comment

- 5.35** The committee is pleased that the Department of Industry – Lands has made some progress in clearing the backlog of road closure applications. However, the lengthy delays still experienced by landholders is unacceptable. The Minister needs to take urgent steps to complete this backlog of work, while at the same time ensuring there is adequate opportunity for community consultation on proposed road disposals. The committee has concerns that the social and environmental values of many parcels of land set aside as unmade Crown roads are not being adequately assessed given the very short public consultation period, the lack of

³⁰⁵ Evidence, Mr Peter Smith, Director Environment Services, Snowy Monaro Regional Council, 1 August 2016, p 16.

³⁰⁶ Evidence, Mr Russ Pigg, General Manager, Shoalhaven City Council, 1 August 2016, p 2.

³⁰⁷ Evidence, Ms Jenny Bennett, Executive Officer, Central NSW Councils, 2 August 2016, p 15.

³⁰⁸ Evidence, Mr Bill McAnally Mayor, Narromine Shire Council; 2 August 2016, pp 8-10; Evidence, Mr Ashely Wielinga, General Manager, Warren Shire Council, 2 August 2016, pp 8-10.

³⁰⁹ Answers to questions on notice, Kyogle Council, received 24 August 2016, p 4.

adequate resources in the Department and the narrow scope of the existing public notification.

- 5.36** Therefore, the committee recommends that the Minister increase staffing levels for the Crown roads closure program and increase the minimum time for publication of the proposal to dispose of a Crown road.

Recommendation 14

That the Minister for Lands and Water increase staffing levels for the Crown roads disposal program, increase the minimum time for publication of the proposal to dispose of Crown roads and consider methods to widen the scope of public notification so that a broader group of interested stakeholders are made aware of proposed land sales.

- 5.37** Further, the committee is generally supportive of the transfer of Crown roads to local councils, but only on a voluntary, opt-in basis. In addition, the committee agrees with councils that this transfer cannot occur while the backlog of road closures remains this large. The committee recommends that Crown roads be transferred to local government ownership only when the current backlog of closure applications has been reduced to a manageable level.

Recommendation 15

That the Minister for Lands and Water ensure that Crown roads will only be transferred as Local land on a voluntary basis to local government once the Department of Industry – Lands has reduced the current backlog of closure applications to a manageable level.

Travelling stock routes and reserves

- 5.38** Travelling stock routes are thoroughfares for walking domestic livestock, such as sheep or cattle, from one location to another, while travelling stock reserves are parcels of land set aside for use by travelling or grazing stock. These reserves are also used for a range of other purposes including public recreation, apiary sites and for conservation and can have significant environmental and cultural heritage values. The Local Land Services manages the majority of travelling stock reserves outside the Western Division, comprising of around 500,000 hectares.³¹⁰
- 5.39** A group of drovers and graziers formed the group Combined Action to Retain Routes for Travelling Stock (CARRTS) to combat what it perceived as ‘the ever increasing bureaucratic difficulties associated with drovers and graziers being able to drive livestock through and onto the travelling stock reserves’.³¹¹ Their primary concerns are that the Local Land Services is not

³¹⁰ Submission 128, NSW Government, pp 7 and 18.

³¹¹ Submission 170, Combined Action to Retain Routes for Travelling Stock (CARRTS), p 1.

properly funded to carry out its functions, the administrative procedures for permits is overly bureaucratic and Local Land Services rangers are inexperienced and have differing practices.

5.40 Mr Philip Dartnell, Consultant, for CARRTS explained that Local Land Services could effectively manage travelling stock routes if it was funded properly, had the right governance and if there was an appropriate mechanism that allowed drovers and graziers to have a proper input at board level.³¹²

5.41 Mr Dartnell recommended that Local Land Services form a State Travelling Stock Route management council that:

... develops policy, advises the Minister, the chair of the Local Land Services board and individual Local Land Services board members, acts as an arbitrator and oversees the development and training of TSR rangers and/or relevant staff.³¹³

5.42 Mr Dartnell explained that the current user-pays model for travelling stock routes is eminently flawed. The travelling stock reserves are so comprehensive, across so many users, that it cannot be paid for by a simple user-pays scheme.³¹⁴

5.43 CARRTS also stated that the current licencing system is very inefficient and advocated for a one-stop shop for permits. Currently permits can only be granted in person in a Local Land Services office for the area the drover or grazer is entering. Only one-off permits for particular droves can be granted. The drover needs to leave the cattle secured at the border and go into the office to get the permit for the next area. Mr Dartnell noted that this can be straightforward or 'you may get there on a Thursday and the Local Land Services office is closed, the ranger cannot be contacted, and you are stuck until Tuesday next week'.³¹⁵

5.44 Further, Mr Dartnell stated that many offices are open only a couple of days a week and drovers 'have no end of difficulty getting their permits and no end of difficulty getting in contact with the ranger'.³¹⁶

5.45 Mr Dartnell, also explained that Local Land Services rangers are inexperienced which causes problems for drovers and graziers:

We now have a terrible situation where these reserves ... are now subject to a bureaucracy where the rangers that are employed have nowhere near the knowledge that rangers once had. They are making decisions or negating requests which is causing terrible concerns and difficulties on a daily basis for drovers and graziers.³¹⁷

³¹² Evidence, Mr Philip Dartnell, Consultant, Combined Action to Retain Routes for Travelling Stock Group, 2 August 2016, p 30;

³¹³ Evidence, Mr Dartnell, 2 August 2016, p 35.

³¹⁴ Evidence, Mr Dartnell, 2 August 2016, p 30.

³¹⁵ Evidence, Mr Dartnell, 2 August 2016, p 36.

³¹⁶ Evidence, Mr Dartnell, 2 August 2016, p 33.

³¹⁷ Evidence, Mr Dartnell, 2 August 2016, p 29.

5.46 CARRTS confirmed that rangers do not do an internship with drovers or graziers. Mr Dartnell stated that it would be a good idea if they did, in order to gain some real life experience of travelling stock.³¹⁸

5.47 Mr Penfold argued that rangers also have differing practices between regions:

Where I live is actually on the border of Quandialla and West Wyalong. You are on the border of two boards now—the Riverina and the Central West. It was four different boards but now it is two boards. It is always the case that you have to negotiate a different set of rules with every ranger. The vegetation will not change and the stock routes do not change, but one ranger will want you to do six kilometres and the next ranger will want you to do 10 kilometres One ranger might let you do two kilometres. There are sorts of silly little things you have to negotiate with the rangers at the moment.³¹⁹

5.48 This was confirmed by Mr Dartnell who also spoke of reserves being fenced off under the erroneous impression it was good for the environment:

There is a mixture—a never-ending mixture—of views from different rangers about how things work. We have some Local Land Services regions where they have even fenced off some of the routes with this very notion, “Oh, it’s to protect the environment”. There does not seem to be any historical understanding that periodic grazing and stock moving through these reserves actually does tremendous good for the reserves because the stock eat the noxious weeds. They leave the natives and they clean up as they move through. A lot of the travelling stock routes are absolutely pristine land. They have never been ploughed. They have never had pesticides or anything used on them. They are in incredibly good condition and that is because of the many decades of practice of this. But that has all been turned on its head because there are these misunderstandings.³²⁰

5.49 Travelling stock routes and reserves are also vitally important to the beekeeping industry. Mr Bruce White, Sydney Branch, New South Wales Apiarists’ Association told the committee that beekeepers migrate their hives and often use the travelling stock route network for this purpose. It is not uncommon for beekeepers to use Crown land for up to nine months of the year.³²¹

5.50 Similar to CARRTS, the Apiarists’ Association were concerned that different Local Land Services areas impose different fees on beekeepers. When beekeepers use Crown land, they apply to the Local Land Services to be issued with a 12-month licence to harvest nectar on that property.

5.51 Mr White advocated for a uniform fee for beekeepers on all Local Land Services sites as currently the cost varies from \$75-\$122 per annum per property. He noted that while the fees

³¹⁸ Evidence, Mr Dartnell, 2 August 2016, p 34.

³¹⁹ Evidence, Mr Ray Penfold, Member, Combined Action to Retain Routes for Travelling Stock Group, 2 August 2016, p 31.

³²⁰ Evidence, Mr Dartnell, 2 August 2016, p 34.

³²¹ Evidence, Mr Bruce White, Sydney Branch, New South Wales Apiarists’ Association, 15 August 2016, p 11.

seem low, beekeepers may only use that land once every three to four years. Mr White also stated that tenures for longer than a 12-month period should be considered.³²²

- 5.52** In addition, he stated that the system could be improved if there was a one-stop-shop for beekeepers to pay the same fee for the whole Crown estate³²³ and noted that a working party had been set up to consider the proposal.³²⁴ Mr White explained that the industry is hoping there will be only one government agency where beekeepers apply to use forestry, national park sites and Local Land Services sites, whereas now they have to go to three or four places to obtain a licence.³²⁵
- 5.53** Further, Mr White noted that much longer term security for beekeeper registration would be preferable. For many years this was an annual renewal, although this has recently been increased to two years to save paperwork.³²⁶
- 5.54** Finally, Mr White expressed concern regarding blind online auctions to access sites in State forests around Batemans Bay. These sites sold for exceptionally high prices, such as \$3,000, which is unsustainable for beekeepers, as their returns would not cover the costs.³²⁷
- 5.55** In 2015 Local Land Services released a draft of the NSW Travelling Stock Reserves State Planning Framework 2016-19. The final document will set out the principles and framework for how Local Land Services will manage travelling stock reserves. The NSW Government indicated that the framework will also guide the development of regional travelling stock reserve plans. Consultation on the draft framework was held over a 10-week period in late 2015. Over 600 submissions were received, which are currently being considered.³²⁸
- 5.56** The Minister stated that the review is long overdue and will consider a range of matters about the future of travelling stock reserves:
- No-one has really the time to take a snapshot of where the reserves are, what is left of them, what is their use and current purpose but, more importantly, what is the future. Do we need new routes? Do we need other areas? These are the questions that are being thrown up as part of what Local Land Services is doing. They are working closely with Crown Lands.³²⁹
- 5.57** The Minister also stated that there have been no more auctions since the initial trial and he was well aware of the concerns it had raised.³³⁰

³²² Evidence, Mr White, 15 August 2016, pp 12-13.

³²³ Evidence, Mr White, 15 August 2016, p 13.

³²⁴ Evidence, Mr White, 15 August 2016, p 14.

³²⁵ Evidence, Mr White, 15 August 2016, p 12.

³²⁶ Evidence, Mr White, 15 August 2016, p 15.

³²⁷ Evidence, Mr White, 15 August 2016, p 14.

³²⁸ Submission 128, NSW Government, p 18.

³²⁹ Evidence, Minister Blair, 15 August 2016, p 69.

³³⁰ Evidence, Minister Blair, 15 August 2016, pp 69-70.

Committee comment

- 5.58** The committee considers travelling stock routes and reserves to be vitally important to New South Wales and commends the Minister for initiating a State planning framework.
- 5.59** The committee strongly supports the evidence received by CARRTS and the Apiarists Association that Local Land Services requires changes so that it can effectively manage travelling stock routes and reserves in a more holistic manner. We note the very clear evidence of the economic, social and environmental importance of the travelling stock route network and its importance to the future of this State.
- 5.60** For this reason the committee makes a number of practical recommendations, including that the Minister increase the funding for the Local Land Services and amend its governance structure to allow input from drovers and graziers at board level and the adoption of consistent State-wide policies and practices regarding travelling stock routes and reserves. In addition, the committee recommends for the Local Land Services permit process for drovers and graziers and the licencing process for beekeepers, to become more streamlined and user-friendly. Finally, we recommend the introduction of a Local Land Services ranger internship program to ensure that all rangers are effectively trained and have practical experience managing travelling stock, and the important environmental and cultural values of the travelling stock route network.

Recommendation 16

That the Minister for Lands and Water increase the funding for the Local Land Services and amend its governance structure to allow input from drovers and graziers at board level.

Recommendation 17

That the Minister for Lands and Water:

- ensure that the Local Land Services adopt consistent State-wide policies and practices regarding travelling stock routes and reserves
 - amend the Local Land Services permit process for drovers and graziers accessing travelling stock routes to introduce a one-stop-shop, which provides an annual permit and an ability to pay online
 - amend the Local Land Services licencing process for beekeepers on travelling stock reserves to introduce a one-stop-shop, with uniform State-wide fees, and consider issuing licences for more than one year
 - introduce a Local Land Services ranger internship program where all rangers must complete training with drovers and graziers.
-

Chapter 6 Aboriginal land claims

This chapter provides a background to the *Aboriginal Land Rights Act 1983* and its relationship to the proposed new Crown land legislation. It discusses the current land claims process and the need to prioritise land claims. The chapter also explores the Aboriginal Land Agreements provision in the *Aboriginal Land Rights Act 1983* and how this will impact on the land claims process. Zoning issues and difficulties in claiming economically viable land are also considered.

Background

6.1 The *Aboriginal Land Rights Act 1983* allows Aboriginal land councils to place claims on Crown land ‘not lawfully used or occupied ... or not needed, nor likely to be needed, for an essential public purpose’, as compensation for dispossession.³³¹

6.2 The NSW Aboriginal Land Council and NTSCORP explained the benefits of successful land claim determinations for Aboriginal land councils:

The successful determination of a land claim under the *Aboriginal Land Rights Act 1983* generally delivers freehold title to land to the relevant Aboriginal Land Council ... The transfer of freehold title affords Aboriginal Land Councils the same rights as other freehold owners. Subject to compliance mechanisms of the *Aboriginal Land Rights Act 1983*, Aboriginal Land Councils can develop or deal with lands for the economic development of Aboriginal Communities.³³²

6.3 Cr Anne Dennis, Deputy Chairperson, NSW Aboriginal Land Council, explained the purpose of the *Aboriginal Land Rights Act* was to provide a ‘simple, quick and inexpensive’ mechanism for the repossession of land:

It was a great initiative and gave us Aboriginal people hope. It was to be the most fundamental initiative for the regeneration of Aboriginal culture and dignity whilst laying the basis for a self-reliant and more secure economic future for Aboriginal people.³³³

6.4 For Cr Dennis and Mr Nathan Moran, Chief Executive Officer, Metropolitan Local Aboriginal Land Council the land claims process was an undertaking that has not been fulfilled or delivered by successive governments.³³⁴

6.5 Mr Moran stated ‘the greatest issue for our communities is the lack of genuine realisation of the preamble of the Land Rights Act that said that we would be recompensed for the loss of the State through the use of Crown lands and the ability to have Crown land appropriately given to us’.³³⁵

³³¹ *Aboriginal Land Rights Act 1983*, s 36 (1).

³³² Submission 346, NTSCORP, p 14; Submission 127, NSW Aboriginal Land Council, p 1.

³³³ Evidence, Cr Anne Dennis, Deputy Chairperson, NSW Aboriginal Land Council, 29 July 2016, p 2.

³³⁴ Evidence, Cr Dennis, 29 July 2016, p 2; Evidence, Mr Nathan Moran, Chief Executive Officer, Metropolitan Local Aboriginal Land Council, 29 July 2016, p 13.

³³⁵ Evidence, Mr Moran, 29 July 2016, p 13.

- 6.6 Local Aboriginal land councils and Aboriginal people may also be a trustee or trust board members for Crown land reserves. Mr David McPherson, Group Director Regional Services, Department of Industry – Lands, said Aboriginal trustees or trust board members would be encouraged and welcomed,³³⁶ although, Mr Moran noted that the Metropolitan Aboriginal Land Council were not and had never been trustees of any Crown land.³³⁷

Current Crown land legislation and proposed changes

- 6.7 The proposed new Crown lands legislation will not affect the *Aboriginal Land Rights Act* or the *Native Title Act 1993* (Cth), with the government advising it would ‘work closely with both Aboriginal Land Council and Local Councils in implementing the recommendations of the Crown Land Management Review, including by exploring opportunities afforded by the new Aboriginal land agreement provisions in the *Aboriginal Land Rights Act 1983*’ (this will be explored in detail from paragraph 6.34).³³⁸ The Crown Land Management Review and White Paper noted that the *Aboriginal Land Rights Act* was to be reviewed separately as it was outside the scope of the Crown land review.

- 6.8 The proposed legislation is informed by submissions received to the Crown Lands Legislation White Paper 2014, which stressed any new legislation:

must not jeopardise land claims ... Land with land claims will not be transferred to local Councils without Aboriginal Land Council consent [and] Aboriginal Land Councils [should] be involved in voluntary negotiations with local Councils using Aboriginal Land Agreement mechanisms of the *Aboriginal Land Rights Act*.³³⁹

- 6.9 This was in opposition to the views of some local councils and other individuals and organisations who wanted to amend the *Aboriginal Land Rights Act* as a means to limit the amount of Crown land claimed as well as mitigate the impact of claims on the use of the land.³⁴⁰
- 6.10 Aboriginal interests are currently not reflected in the *Crown Lands Act 1989*. The NSW Government has indicated that this will be addressed in the proposed legislation by including Aboriginal interests in the object and provisions of the Act:

... [An] Object of new Act will provide for facilitating the use and management of Crown land by Aboriginal people. Provisions will specifically contemplate Aboriginal

³³⁶ Evidence, Mr David McPherson, Group Director Regional Services, Department of Industry – Lands, 29 July 2016, p 46.

³³⁷ Evidence, Mr Moran, 29 July 2016, p 16.

³³⁸ NSW Department of Industry, Skills and Regional Development, Response to Crown Lands Legislation White Paper: Summary of Issues and Government Response, 2015, p 21. NSW Trade and Investment, Crown Lands Management Review, 2014, p 11; NSW Trade and Investment, Crown Lands Legislation White Paper, 2014, p 4.

³³⁹ Answers to questions on notice, the Hon Niall Blair MLC, Minister for Primary Industries, Lands and Water, 23 August 2016, p 4.

³⁴⁰ NSW Department of Industry, Skills and Regional Development, Response to Crown Lands Legislation White Paper: Summary of Issues and Government Response, 2015, p 21.

management of Crown reserves. Provisions will include protections for Aboriginal interests under Aboriginal land rights and native title legislation.³⁴¹

- 6.11** The NSW Aboriginal Land Council supported the proposition that any reform of the *Crown Lands Act* should recognise Aboriginal ownership and prioritising, wherever possible, the transfer of land into Aboriginal ownership.³⁴² The council also stated that it was crucial that this reform process involved adequate and genuine consultation with each land council.³⁴³
- 6.12** As Cr Dennis pointed out, the *Crown Lands Act* and *Aboriginal Land Rights Act* are inseparable and must work together: '[w]e cannot change one without impacting on the other'.³⁴⁴

Committee comment

- 6.13** The committee recognises the fact that prior to 1788 all of New South Wales was Aboriginal land. We also recognise the unique and continuing relationship that Aboriginal people have to the land across New South Wales. We accept the representations that were made to the committee on behalf of the NSW Aboriginal Land Council that the Crown Lands Act should therefore recognise Aboriginal custodianship.

Recommendation 18

That the NSW Government ensure the new Crown land legislation recognises the fact of prior and continuing Aboriginal custodianship of Crown land and operates together with the *Aboriginal Land Rights Act 1983*.

Backlog of Aboriginal land claims

- 6.14** The majority of inquiry participants spoke of the high volume of unprocessed Aboriginal land claims and the slow, ineffective, and frustrating process for dealing with them.
- 6.15** At present, there is around 29,000 land claims yet to be determined in New South Wales.³⁴⁵ The Minister for Primary Industries, Minister for Lands and Water outlined:

... [the] current process for determining Aboriginal land claims under the Aboriginal Land Rights Act is lengthy and costly. Currently all land claims have to be individually assessed by the Minister for Lands and Water as to whether they meet specific statutory criteria relating to the use and purpose as at the date of the lodgement of the claim.³⁴⁶

³⁴¹ Answers to questions on notice, Minister Blair, 23 August 2016, p 4.

³⁴² Evidence, Cr Dennis, 29 July 2016, p 12.

³⁴³ Evidence, Cr Dennis, 29 July 2016, p 12.

³⁴⁴ Evidence, Cr Dennis, 29 July 2016, p 12.

³⁴⁵ Evidence, Hon Niall Blair MLC, Minister for Primary Industries, Lands and Water, 29 July 2016, p 34; Submission 128, NSW Government, p 12.

³⁴⁶ Evidence, Minister Blair, 29 July 2016, pp 34-35.

- 6.16** This was supported by Ms Alison Stone, Deputy Director General, Department of Industry – Land who said the land claims process followed a parcel by parcel approach which started at the ‘oldest claims and move[d] through the list’.³⁴⁷ She said the most equitable way to process land claims was by date order as opposed to picking and choosing certain land claims over others.³⁴⁸ Ms Stone noted that this process meant that some of the land claimed ‘may not be the most valued land’.³⁴⁹
- 6.17** Mr Stephen Wright, Registrar at the Office of the Registrar, *Aboriginal Land Rights Act 1983* (NSW), informed the committee that, as of 26 July 2016, of 40,960 claims lodged only 1,906 claims have been granted (approx. 0.046 per cent). The breakdown of land claims from 1983 to 2016 is as follows:

Table 6.1 Breakdown of land claims from 1983 to 2016³⁵⁰

Number of claims	Status
40,960	Lodged
1,906	Granted
7,023	Refused
14,055	Withdrawn or finalised
29,840	Incomplete
672	Part grant, part refuse

- 6.18** The NSW Government acknowledged that the extremely drawn-out claims process spanning 33 years has created ‘uncertainty for government, industry and the Aboriginal communities that land rights are intended to benefit’.³⁵¹ This process, coupled with legal proceedings, further undermines ‘relationship building between government and Aboriginal communities’.³⁵²
- 6.19** This uncertainty was echoed by several inquiry participants. Mr Sean Gordon, Chief Executive Officer at Darkinjung Local Aboriginal Land Council stated the current land claims process and the new Aboriginal Land Agreements did not give certainty to Aboriginal land councils, local councils or the government ‘that land will be continually opened up for opportunity’.³⁵³

³⁴⁷ Ms Alison Stone, Deputy Director General, Department of Industry – Land, 29 July 2016, p 48.

³⁴⁸ Ms Stone, 29 July 2016, p 48.

³⁴⁹ Ms Stone, 29 July 2016, p 48.

³⁵⁰ Evidence, Mr Stephen Wright, Registrar, Office of the Registrar, *Aboriginal Land Rights Act 1983* (NSW), 29 July 2016, p 6; Tabled document, Mr Stephen Wright, Registrar, Office of the Registrar, *Aboriginal Land Rights Act 1983* (NSW), *Aboriginal Land Claim Statistics from 1983-2016 in five year periods*.

³⁵¹ Submission 128, NSW Government, p 13.

³⁵² Submission 128, NSW Government, p 13.

³⁵³ Evidence, Mr Sean Gordon, Chief Executive Officer, Darkinjung Aboriginal Local Land Council, 8 August 2016, p 24.

- 6.20** Similarly, Mr Russell Pigg, General Manager, Shoalhaven City Council acknowledged that the stagnation of land claim processing was ‘leaving people in limbo. It means that all of those lands subject to the claim are sitting idle and nothing can happen with them’.³⁵⁴
- 6.21** Both Mr Gordon and Mr Pigg noted that Aboriginal communities could not improve culturally, socially or economically if land claims were still outstanding.³⁵⁵
- 6.22** Many land councils felt frustrated by the small number of claims being processed or granted as it has hindered Aboriginal communities’ ability to address issues via the establishment of economic bases, or using land for cultural and social purposes. Cr Dennis told the committee:
- ...that is the frustration that we have. Trying to address many issues within community for Aboriginal people, whether it is youth, men or women ... but because the land is not being granted and there are other hurdles that we need to get across within local community...³⁵⁶
- 6.23** She also informed the committee that ‘land councils would like to get on with business’ but the current land claims process was preventing them.³⁵⁷ In turn, Mr Stephen Ryan, Councillor, Central Region, NSW Aboriginal Land Council was astonished by the fact that land claims from 1983 were still unprocessed.³⁵⁸
- 6.24** Parkes Shire Council described the current land claims system as ‘neither helpful nor respectful to the Aboriginal community’.³⁵⁹ Such sentiments were echoed by Cr Bill McAnally, Chair, Orana Regional Organisation of Councils and Mayor, Narromine Shire Council, who stated a priority listing was needed as ‘[t]he current process is not respectful or helpful to the Aboriginal community’.³⁶⁰
- 6.25** Mr Nathan Moran, Chief Executive Officer, Metropolitan Local Aboriginal Land Council felt that the high number of unresolved and undetermined claims showed a lack of good will and ‘commitment from government to honour its own legislation’.³⁶¹

Need for prioritisation of land claims

- 6.26** Inquiry participants agreed there needed to be a more efficient way of processing and prioritising the approximately 29,000 land claims still outstanding. There was overwhelming support from participants for land claims to be prioritised by local Aboriginal land councils in collaboration with local councils and the government as a way to fast track the process. This

³⁵⁴ Evidence, Mr Russell Pigg, General Manager, Shoalhaven City Council, 1 August 2016, p 3.

³⁵⁵ Evidence, Mr Gordon, 8 August 2016, p 24; Evidence, Mr Pigg, 1 August 2016, p 3.

³⁵⁶ Evidence, Cr Dennis, 29 July 2016, pp 8-9.

³⁵⁷ Evidence, Cr Dennis, 29 July 2016, p 9.

³⁵⁸ Evidence, Mr Stephen Ryan, Councillor, Central Region, NSW Aboriginal Land Council, 2 August 2016, p 23.

³⁵⁹ Submission 111, Parkes Shire Council, p 2.

³⁶⁰ Evidence, Cr Bill McAnally, Chair, Orana Regional Organisation of Councils and Mayor, Narromine Shire Council, 2 August 2016, p 2.

³⁶¹ Evidence, Mr Moran, 29 July 2016, p 13.

would give Aboriginal communities the opportunities needed to advance and become economically independent.

6.27 Darkinjung Local Aboriginal Land Council outlined a proposal for prioritising claims:

... priority should be given to Aboriginal land claims, through the use of an Aboriginal Land Agreement or other mechanisms, where it can be demonstrated that;
(a) The land subject to claim has the ability, subject to other planning actions, result in economic, cultural, environmental or social outcomes for the land council and the broader community or; (b) The land is located within a strategic planning corridor.³⁶²

6.28 Mr Gordon gave an example of what could be an amendable agreement between Darkinjung and Central Coast Council if such structures and processes were in place:

The land that we have an interest in is under claim, council have a trust management over it. Council do not want the land. The land they want is up at Tuggerah ... We have a land claim over it; our interest in that land is not as great as what the council's interests are. There is not a process right now that allows us to get the land that we want for the offset for our development that allows councils to get the land that they want ...³⁶³

6.29 Griffith City Council supported the idea of land claims being 'dealt with at a local level ... to identify the importance and benefit ... and further facilitate negotiations between the Council, Crown and Aboriginal Land Councils on important projects'.³⁶⁴

6.30 Likewise, the Canberra Region Joint Organisation thought it would be beneficial if government, alongside local councils and local Aboriginal land councils prioritised land claims that were of great interest to the local Aboriginal community and the wider local community so as to speed up the land claims process.³⁶⁵

6.31 Mr Ashley Wielinga, General Manager, Warren Shire Council, thought the way forward was to undertake a stocktake of claimable land and land claimed in order for local Aboriginal land councils to assess if the land claims were still wanted.³⁶⁶ Mr Wielinga added that blanket land claims over vacant Crown land did not necessarily mean the land was wanted by the Aboriginal community as 'they cannot run it and it is of no benefit to them'.³⁶⁷

6.32 According to Mr Stephen Ryan, Councillor, Central Region, NSW Aboriginal Land Council, communication and genuine engagement between government and local aboriginal land councils was needed if any real progress was to be made concerning the negotiation and prioritisation of land claims.³⁶⁸ In addition, Mr Ryan said that local Aboriginal land councils

³⁶² Submission 221, Darkinjung Local Aboriginal Land Council, p 15.

³⁶³ Evidence, Mr Gordon, 8 August 2016, p 28.

³⁶⁴ Submission 73, Griffith City Council, p 2.

³⁶⁵ Evidence, Canberra Region Joint Organisation, 1 August 2016, p 19.

³⁶⁶ Evidence, Mr Ashley Wielinga, General Manager, Warren Shire Council, 2 August 2016, p 2.

³⁶⁷ Evidence, Mr Wielinga, 2 August 2016, p 7.

³⁶⁸ Evidence, Mr Ryan, 2 August 2016, p 23.

‘must be given adequate resources so that we all have the same amount of knowledge on a level playing field’ when it came to prioritising and negotiating land claims.³⁶⁹

- 6.33** Although it was ‘all well and good’ to have land handed back to them, Mr David Brown, Chief Executive Officer, Jali Local Aboriginal Land Council told the committee that land councils did not always have the resources to manage the land, especially when it came to development.³⁷⁰ As he stated: ‘We have to somehow manage very small amounts of money we get to manage the land councils. We only get a certain allocation under the Land Rights Act. Hand back our land and give us the capacity to manage our land’.³⁷¹

Aboriginal Land Agreements

- 6.34** In 2014, the *Aboriginal Land Rights Act 1983* was amended to include Aboriginal Land Agreements which provide for:

36AA an agreement, in writing, between the Crown Lands Minister and one or more Aboriginal Land Councils (whether or not the agreement also includes other parties) that, in addition to any other matter that may be included in the agreement, makes provision for:

- (a) the exchange, transfer or lease of land to an Aboriginal Land Council, or
- (b) an undertaking by an Aboriginal Land Council not to lodge a claim, or to withdraw a claim, in relation to specified land.³⁷²

- 6.35** The Aboriginal Land Agreements provisions resulted from a review of the *Aboriginal Land Rights Act* commenced by then Minister for Aboriginal Affairs, the Hon Victor Dominello MP, in December 2011. A working group consisting of the Registrar of the Aboriginal Land Rights Act, Chief Executive Officer of the NSW Aboriginal Land Council and two members of local Aboriginal land councils, was established to review and make recommendations for improvements to the Act.³⁷³

- 6.36** In October 2012, the working group released its report on the review which recommended the provision of a mechanism whereby Aboriginal land councils and the government could ‘enter into agreements relating to land transfers and land use’ outside of the land claims determination process.³⁷⁴ This proposal was further developed by the NSW Aboriginal Land Council and the government with consultations conducted with the Aboriginal Land Rights Network in August and September 2013.³⁷⁵

³⁶⁹ Evidence, Mr Ryan, 2 August 2016, pp 26-27.

³⁷⁰ Evidence, Mr David Brown, Chief Executive Officer, Jali Local Aboriginal land Council, 3 August 2016, p 18.

³⁷¹ Evidence, Mr Brown, 3 August 2016, p 22.

³⁷² *Aboriginal Land Rights Act 1983*, s 36AA.

³⁷³ *Hansard*, NSW Legislative Council, 12 November 2014, p 2492.

³⁷⁴ *Hansard*, NSW Legislative Council, 12 November 2014, p 2492.

³⁷⁵ NSW Aboriginal Land Council, *Aboriginal Land Rights Amendment Act 2014* (January 2015), <<http://www.alc.org.au/media/95091/150123%20Aboriginal%20Land%20Rights%20Amendments%20Fact%20Sheet%20final.pdf>>.

- 6.37** The Minister for Lands and Water explained that Aboriginal Land Agreements are ‘negotiated agreements which allow for the strategic settlement of multiple land claims’ with the intent of speeding up the land claim process without having to go through the ‘existing land claims determination process’.³⁷⁶
- 6.38** Aboriginal Land Agreements also provide for ‘parties to agree on a range of alternative or additional outcomes to the transfer of Crown land and freehold, integrating opportunities for sustainable, social, cultural and economic benefits for Aboriginal people with the settlement of land claims and provide greater certainty to all parties over Crown land’.³⁷⁷
- 6.39** The Minister further stated the land claims determination process has at times been adversarial, but the new Aboriginal Land Agreements would enable land councils, local councils and the department ‘to sit down, negotiate and be open and transparent’.³⁷⁸
- 6.40** According to Mr Stephen Wright, Registrar, Office of the Registrar, *Aboriginal Land Rights Act 1983* (NSW) the Aboriginal Land Agreement complements the current claim-by-claim determination process and is the tangible outcome of ‘the New South Wales Government and Aboriginal land councils recognising the need to find an alternative path’ to the land claims process.³⁷⁹
- 6.41** He advised that a challenge of the Aboriginal Land Agreements will be the negotiation of ‘competing priorities’ of the government and land councils ‘for the determination and/or settlement by agreement of land claims’.³⁸⁰

Aboriginal Land Agreements pilot program

- 6.42** Despite the amendment coming into force on 1 July 2015, the Aboriginal Land Agreement is currently only available to local Aboriginal land councils within four local government areas that participated in the Local Land Pilot in 2015 – Warringah, Tamworth, Corowa and Tweed.³⁸¹ For more information about this pilot see paragraphs 2.25 to 2.35.
- 6.43** According to the Minister, Aboriginal Land Agreements will allow land councils to ‘identify claims to go on the priority list’ through negotiation.³⁸² This negotiation process will be guided by the Aboriginal Land Agreement Negotiation Framework devised by NSW Aboriginal Land Council and the Minister and Department of Industry – Lands.
- 6.44** The Minister stated, the framework ‘is a significant step in fulfilling the intentions of the Act. The framework defines the scope of negotiations and proposed principles that will guide how

³⁷⁶ Evidence, Minister Blair, 29 July 2016, p 35.

³⁷⁷ Evidence, Minister Blair, 29 July 2016, p 35.

³⁷⁸ Evidence, Minister Blair, 29 July 2016, p 48.

³⁷⁹ Evidence, Mr Wright, 29 July 2016, pp 3 and 7.

³⁸⁰ Evidence, Mr Wright, 29 July 2016, p 7.

³⁸¹ Land Divestment Program: Aboriginal Land Agreement Negotiation Framework, 2016, p 5.

³⁸² Evidence, Minister Blair, 29 July 2016, p 48.

negotiations are conducted and prescribe its procedural elements to ensure negotiations are fair and are likely to succeed’.³⁸³

6.45 More specifically, the framework outlines that:

Crown land does not have to be the subject of a land claim to be considered in Aboriginal Land Agreement negotiations ... the determination of individual land claims in accordance with section 36 of the *Aboriginal Land Rights Act* will continue in parallel with any Aboriginal Land Agreement negotiations [and that] in areas where Aboriginal Land Agreement negotiations are occurring it is anticipated that all existing land claims will be the subject of Aboriginal Land Agreement negotiations and therefore will not generally require individual determination for the duration of the negotiation.³⁸⁴

6.46 All Aboriginal Land Agreement negotiations will be ‘voluntary and must be conducted in good faith’ with the Minister stating:

The framework will ensure that Aboriginal Land Agreement negotiations are fair and likely to succeed in the shared objectives of speeding up the process of land claims, providing more sustainable social, cultural and economic outcomes for local Aboriginal land councils and Aboriginal communities from the return of land, and providing greater certainty to all parties over Crown land.³⁸⁵

6.47 Mr Moran thought it would be very useful to have a system that allowed claims to be prioritised and believed the Aboriginal Land Agreements amendment would ‘allow such negotiations to take place:

36AA allows us to negotiate directly on Crown land claims and other lands outside of claimable Crown land. We believe that is a really good opportunity to sit down and negotiate direct.³⁸⁶

6.48 Darkinjung Local Aboriginal Land Council highlighted ‘the primary determinant of whether claims settle is the willingness of the parties. For the new provisions to be effective, there has to be a willingness on the part of Government to engage with land councils to explore ways to resolve claims’.³⁸⁷

6.49 It also argued the Aboriginal Land Agreement provision was ‘being used in a more restrictive way than what was either anticipated, or required’ through its ‘refusal to investigate the resolution of claims’ outside of the four designated pilot areas.³⁸⁸

6.50 However, inquiry participants from two of the four selected local government areas involved in the Local land pilot program told the committee they were unaware when the Aboriginal

³⁸³ Evidence, Hon Niall Blair MLC, Minister for Primary Industries, Lands and Water, 15 August 2016, p 72.

³⁸⁴ Land Divestment Program: Aboriginal Land Agreement Negotiation Framework, 2016, pp 2-3.

³⁸⁵ Evidence, Minister Blair, 15 August 2016, p 72.

³⁸⁶ Evidence, Mr Moran, 29 July 2016, p 15.

³⁸⁷ Submission 221, Local Aboriginal Land Council Darkinjung, p 13.

³⁸⁸ Submission 221, Local Aboriginal Land Council Darkinjung, p 15.

Land Agreement pilot program would commence and what the negotiation process would involve.³⁸⁹

- 6.51** According to Mr Stephen Hynd, Director of Government Relations, NSW Aboriginal Land Council, no negotiations concerning Aboriginal Land Agreements have commenced, rather discussions were focused on the possibility of negotiations:

... negotiations specifically about land have not commenced in any of these areas. The negotiations to date have been with the State Government about the possibility of negotiations in those specific areas ... We are at this stage just actually exploring that opportunity.³⁹⁰

- 6.52** Ms Nela Turnbull, Legal Services Officer, Tweed Shire Council said, at the conclusion of the Local Land pilot, councillors were told that the 'next step would be engaging with the land councils' but had not received any further information.³⁹¹ In fact, Ms Turnbull was surprised that the Aboriginal Land Agreement amendment had been enacted when the pilot had not been finalised or evaluated.³⁹²

- 6.53** Mr Moran who is involved in the Warringah pilot noted it was now a waiting game, with the Department of Industry – Lands holding the control and power of determining when the pilot program will commence:

They will tell us which of the four will be the first and the order and priority of the others.

We virtually sit back and wait to be informed and be instructed as to when this will commence. We have had a presentation and voiced our willingness to negotiate. Given the history, we feel that is the only thing we can do, but we do not have any say on when that will happen and what the priority order of those four different pilots will be.³⁹³

- 6.54** The Minister confirmed that the Aboriginal Land Agreement process was yet to commence in the four selected local government areas, with meetings to be held to 'discuss the proposed process and next steps'.³⁹⁴

- 6.55** With the Aboriginal Land Agreement pilot only being offered in four local government areas, participants noted the inequity of the proposal. Both Mr Moran and Mr Gordon agreed that the Aboriginal Land Agreement pilot should be available to all local Aboriginal land councils not just those in the four selected areas, especially when other land councils were eager to commence negotiations.³⁹⁵

³⁸⁹ Evidence, Ms Nela Turnbull, Legal Services Officer, Tweed Shire Council, 3 August 2016, p 14-15; Evidence, Mr Moran, 29 July 2016, p 15.

³⁹⁰ Evidence, Mr Stephen Hynd, Director of Government Relations, NSW Aboriginal Land Council, 29 July 2016, pp 9-10.

³⁹¹ Evidence, Ms Turnbull, 3 August 2016, p 14.

³⁹² Evidence, Ms Turnbull, 3 August 2016, p 15.

³⁹³ Evidence, Mr Moran, 29 July 2016, p 15.

³⁹⁴ Evidence, Minister Blair, 15 August 2016, p 72.

³⁹⁵ Evidence, Mr Moran, 29 July 2016, p 15; Evidence, Mr Gordon, 8 August 2016, p 24.

- 6.56** Of these four areas, two will likely commence negotiations in 2016, with the other two areas to undergo the negotiation process in 2017. Subject to government approval further Aboriginal Land Agreement negotiations may commence in other parts of the state in 2018 and 2019. Pending the evaluation of Aboriginal Land Agreement negotiations scheduled between 2016-2019, consideration will be given to a state-wide rollout.³⁹⁶

Committee comment

- 6.57** The committee acknowledges the frustration experienced by local Aboriginal land councils and the greater Aboriginal community with regards to the 33 year backlog of Aboriginal land claims. We also acknowledge the slow and inefficient state of the current land claims process which hinders the ability of Aboriginal communities to become economically sustainable. The committee recognises that the land claims process urgently needs to be sped up in order to address these concerns.
- 6.58** We note the intent of the Aboriginal Land Agreements provisions to be the genesis of a pilot program which is yet to commence. However, the committee is uncertain as to how the Local land transfer as noted in chapter 2 under the new proposed legislation can occur when consultation and negotiation between local Aboriginal land councils, local councils and the government through the Aboriginal Land Agreement pilot program has not commenced.
- 6.59** The committee believes the Aboriginal Land Agreements pilot needs to be prioritised in order to evaluate its effectiveness in addressing the prioritisation of land claims and the backlog of the land claims yet to be processed. We therefore recommend that the Department of Industry – Lands prioritise the conduct and completion of the Aboriginal Land Agreements pilot program in all four local government areas with an evaluation of the pilot to be made publicly available by the end of 2017.

Recommendation 19

That the Department of Industry – Lands prioritise the conduct and completion of the Aboriginal Land Agreements pilot program in the local government areas of Federation Council, Northern Beaches Council, Tamworth Regional Council and Tweed Shire Council, with an evaluation of the pilot to be made publicly available by the end of 2017.

Economically viable land

- 6.60** The committee received evidence that zoning laws and associated red tape have hindered the ability of Aboriginal communities to effectively use the land they have been granted for economic opportunities. In addition, local Aboriginal land councils noted their difficulty in claiming land that is economically viable.

³⁹⁶ Department of Industry, *Land Divestment Program, Aboriginal Land Agreement Negotiation Framework*, August 2016, p 5.

- 6.61** Inquiry participants stated that local Aboriginal land councils are in a difficult position as the majority of land granted is zoned as environmental land. Cr Dennis said the way in which land claims are determined and zoning laws have hampered the ability of land councils to improve the social and economic conditions of Aboriginal people.³⁹⁷
- 6.62** This was supported by Ms Lynne Hamilton, Planning and Development Manager, Darkinjung Local Aboriginal Land Council, who informed the committee that a large percentage of land granted to Aboriginal land councils is zoned as environmental meaning land councils then had to undergo the difficult and expensive rezoning process to ‘enable economic development on that land’.³⁹⁸ She advised that such rezoning could cost up to \$600,000 per rezoning application and take a minimum of 18 months to process.³⁹⁹
- 6.63** Similarly, Mr Greg Peterson, Chief Executive Officer, Nowra Local Aboriginal Land Council said land was, in most cases, already classed as environmental.⁴⁰⁰ In order to rezone land to make it economically viable, land councils had to seek to change the Local Environmental Plan, which was extremely difficult.⁴⁰¹
- 6.64** This was echoed by Mr Moran who said it was difficult to develop land that has been ‘determined for environmental or ecology values [or] [t]hat land was never determined as being able to be residential’.⁴⁰² He contended that local councils regularly objected when local Aboriginal land councils attempted to rezone land.⁴⁰³
- 6.65** In some instances, land councils saw no other option but to directly contact the Department of Planning and Environment. For example, Darkinjung Local Aboriginal Land Council had to take a rezoning application to the Department of Planning and Environment, Joint Regional Planning Panels, as Ms Hamilton explained:

... we have some land at the very northern tip of what was Wyong shire on Bushells Ridge Road. We have a rezoning application in for that land to be rezoned to residential. We lodged that at the same time as we lodged four other rezoning applications and three of them were approved by council to proceed through to what they call the gateway process, and the fourth one—which was this Bushells Ridge Road property—there was no response.

... We ended up having to go through to the State Government Department of Planning Process, the JRPP, to get that process through. At the JRPP the two council-elected representatives voted against our rezoning proposal and, luckily, the other three members of the JRPP approved it and it will go through the gateway now. But

³⁹⁷ Evidence, Cr Dennis, 29 July 2016, p 10.

³⁹⁸ Evidence, Ms Lynne Hamilton, Planning and Development Manager, Darkinjung Local Aboriginal Land Council, 8 August 2016, p 25.

³⁹⁹ Evidence, Ms Hamilton, 8 August 2016, p 25.

⁴⁰⁰ Evidence, Mr Greg Peterson, Chief Executive Officer, Nowra Local Aboriginal Land Council, 1 August 2016, p 26.

⁴⁰¹ Evidence, Mr Peterson, 1 August 2016, p 26.

⁴⁰² Evidence, Mr Moran, 29 July 2016, p 18.

⁴⁰³ Evidence, Mr Moran, 29 July 2016, p 18-19.

one of the reasons council were holding back on that rezoning is that they had a proposal to build a regional airport not far from that land.⁴⁰⁴

- 6.66** Mr Gordon pointed out that it was not until 2006 with the review of local environmental planning policies that Aboriginal people and land councils actually had the opportunity to participate in local environmental planning processes, through identifying opportunities for rezoning land, opportunities for development, and opportunities ‘for conservation corridors, offsets and so on’.⁴⁰⁵ He emphasised that it had only been since 2006 that Aboriginal people have really had any opportunity to actively participate in such decisions and processes.⁴⁰⁶
- 6.67** Mr Gordon recommended that all land claims registered and granted should have a caveat placed upon them in order to block ‘others from making decisions on our land’. He said the problem currently was a result of the extended time it takes for title to be granted, as others make decisions about the land without engaging with the local Aboriginal land council.⁴⁰⁷
- 6.68** He proposed that ‘the minute a land claim is lodged, whether it is granted or not granted, there should be some type of caveat that says we need to go and sit down with the land council’.⁴⁰⁸ He gave the example of land at Mooney Mooney where NSW Property had begun work on the land with ‘regards to future opportunities around development ... [but] had only just realised in May this year that there is a land claim on it’.⁴⁰⁹
- 6.69** Both Mr Brown and Ms Leweena Williams, Chief Executive Officer, Tweed Byron Local Aboriginal Land Council, agreed with the suggestion that land councils should have the authority to choose how their land should be used and that such decisions should be free from restrictions and constraints such as zoning and environmental laws.⁴¹⁰ Mr Brown noted the various zoning types on the land made it hard for land councils to manage such land when they received limited funding.⁴¹¹
- 6.70** One suggestion to overcome zoning issues was for an Aboriginal State Environmental Planning Policy (SEPP) to prevent land granted from being ‘padlocked’ or ‘fenced off’ from economic, social or cultural opportunities.
- 6.71** Mr Gordon said an Aboriginal SEPP would allow ‘Aboriginal landowners ... to deal directly with the State Government’ therefore bypassing local politics.⁴¹² As Mr Gordon explained:

We expect anything that we are doing economically to be fair and equitable as with all landowners. The problem is when you are an Aboriginal landowner we receive the most number of development objections to any development ... and, because of the

⁴⁰⁴ Evidence, Ms Hamilton, 8 August 2016, p 28.

⁴⁰⁵ Evidence, Mr Gordon, 8 August 2016, p 25.

⁴⁰⁶ Evidence, Mr Gordon, 8 August 2016, p 25.

⁴⁰⁷ Evidence, Mr Gordon, 8 August 2016, pp 29-30.

⁴⁰⁸ Evidence, Mr Gordon, 8 August 2016, p 30.

⁴⁰⁹ Evidence, Mr Gordon, 8 August 2016, p 30.

⁴¹⁰ Evidence, Mr Brown, 3 August 2016, p 23; Evidence, Ms Leweena Williams, Tweed Byron Local Aboriginal Land Council, 3 August 2016, p 23.

⁴¹¹ Evidence, Mr Brown, 3 August 2016, p 18.

⁴¹² Evidence, Mr Gordon, 8 August 2016, pp 25-26.

large number of objections we receive, rather than our land being dealt with based on merit it is dealt with based on politics.⁴¹³

- 6.72** Some local Aboriginal land councils also raised concerns that they are not granted land that is economically viable.
- 6.73** For example, this was noted by Uncle Sonny Simms, a community elder in Nowra, who described land that had been granted to the local Aboriginal land council as ‘billy goat country’.⁴¹⁴ He went on to say that even when land was put to good use such as residential development, land councils still encountered opposition from the broader non-Aboriginal community.⁴¹⁵ He was of the opinion that the way in which the *Aboriginal Land Rights Act* operates, land councils were only left to claim land that could not be ‘used for residential, recreational or other development’.⁴¹⁶
- 6.74** Mr Peterson acknowledged that the land being granted to land councils was like the ‘scraps from the table’. In addition, he explained that a common occurrence was receiving land that had not been surveyed. This means land councils are unable to obtain a land title, making it difficult to use and manage the land.⁴¹⁷
- 6.75** This was supported by Moree Plains Shire Council who thought land councils had received little benefit from the land they have been granted as it is not always ‘strategically, or culturally significant, or necessarily resalable for financial benefit’.⁴¹⁸

Committee comment

- 6.76** The committee recognises the difficulties faced by local Aboriginal land councils in acquiring economically viable land through the land claims process. We understand the importance for local Aboriginal land councils to obtain land that is economically viable so as to support their communities. The committee believes that the granting of claims made on land that is economically viable should be prioritised to allow local Aboriginal land councils the opportunity to support and progress their communities. Therefore we recommend that the Minister for Lands and Water, prioritise Aboriginal land claims for economically viable land.

Recommendation 20

That the Minister for Lands and Water develop a policy to prioritise Aboriginal land claims for economically viable land.

⁴¹³ Evidence, Mr Gordon, 8 August 2016, pp 25-26.

⁴¹⁴ Evidence, Uncle Sonny Simms, community elder, 1 August 2016, p 24.

⁴¹⁵ Evidence, Uncle Sonny, 1 August 2016, p 25.

⁴¹⁶ Evidence, Uncle Sonny, 1 August 2016, p 25.

⁴¹⁷ Evidence, Mr Peterson, 1 August 2016, p 26.

⁴¹⁸ Submission 95, Moree Plains Shire Council, p 6.

- 6.77** We understand that the zoning of land as environmental hinders the ability of the Aboriginal community to use the land to its full economic potential. While the committee notes that since 2006, Aboriginal communities have had some opportunity to participate in local environmental planning processes, we note the evidence that zoning and planning policies and instruments have effectively worked to shackle the land, limiting the ability for Aboriginal communities to tap into the economic and social benefits of the land.
- 6.78** Where Local Aboriginal Land Councils can identify that their reasonable expectations for development are being hampered as a result of overt or tacit opposition from local councils that is not well founded in evidence, then we believe there is a proper role for the Minister for Planning to intervene. Local Aboriginal Land Councils, like all other land owners in New South Wales, deserve to have their planning proposals considered without discrimination and on their merits.

Appendix 1 New Crown land legislation table

Table provided by the Minister for Lands and Water on 23 August 2016.

Outline of Existing vs Proposed Legislation - Summary

FEATURE	CURRENT ACT	PROPOSED NEW ACT	WHITE PAPER CONSULTATION / COMMENT
1. Title of Act 2. Other Acts	Crown Lands Act 1989 Crown Lands (Continued Tenures) Act 1989, Western Lands Act 1901, Commons Management Act 1989, Trustees of Schools of Arts Enabling Act 1902, Public Reserves Management Fund Act 1987, Wentworth Irrigation Act 1890, Hay Irrigation Act 1902)	Crown Land Management Bill 2016 One, consolidated, fit-for-purpose Act. Required provisions from other Acts to be continued in the new legislation	Majority of submissions supported new consolidated legislation and repealing existing Acts. Some submissions proposed retaining existing Commons and Schools of Arts Acts - appropriate existing protections / provisions can be incorporated Very few submissions re Western Lands or Wentworth / Hay Acts.
3. Reducing red tape	Substantial duplication of existing legislation, overlapping administrative responsibilities and inconsistencies in management	One consolidated, fit-for-purpose Act. Duplications, inconsistencies and overlaps to be removed. Protections not provided for in other legislation or through other processes retained	Submissions supported removing red tape and reducing transaction costs. Some concerns that protections for Crown land will be removed.
4. Focus	Concerned with the allocation and management of Crown land, including the administration of tenures and Crown reserves, and also deals with the acquisition and sale of Crown land.	Same focus as existing Act.	See below for discussion of key issues and White Paper feedback. No change proposed - content to be modelised and consolidated reflecting focus of existing Acts
5. Scope	8 Existing Acts cover Crown land, Western Land etc.	New Act will apply to all land currently administered under the Crown Lands Act, Crown Lands (Continued Tenures) Act, Western Lands Act, Commons Management Act, Trustees of Schools of Arts Enabling Act, Wentworth Irrigation Act and Hay Irrigation Act 1902 other than privately owned land under the Trustees of Schools of Arts Enabling Act.	See below for discussion of key issues and White Paper feedback. No change proposed - content to be modelised and consolidated reflecting scope of existing Acts
6. Content	Existing Act includes provisions in relation to objects, principles, powers, land ownership, tenures, sale and disposal of land, Crown reserves, compliance and enforcement, administrative and miscellaneous measures	New Act will include provisions in relation to objects, powers, land ownership, tenures, sale and disposal of land, Crown reserves, compliance and enforcement, administrative and miscellaneous measures	See below for discussion of key issues and White Paper feedback. No significant change proposed - content to be modelised and consolidated reflecting content of existing Acts
7. Objects	To ensure that Crown land is managed for the benefit of the people of New South Wales and in particular to provide for: (a) a proper assessment of Crown land, (b) the management of Crown land having regard to the principles of Crown land management contained in this Act, (c) the proper development and conservation of Crown land having regard to those principles, (d) the regulation of the conditions under which Crown land is permitted to be occupied, used, sold, leased, licensed or otherwise dealt with, (e) the reservation or dedication of Crown land for public purposes and the management and use of the reserved or dedicated land, and (f) the collection, recording and dissemination of information in relation to Crown land	To provide for the ownership, use and management of Crown land in NSW so as: (a) To provide greater clarity concerning the law applicable to Crown land, and (b) To require environmental, social, cultural heritage and economic considerations to be taken into account in decision-making about Crown land, and (c) To provide for the consistent, efficient, fair and transparent management of Crown land for the benefit of the people of NSW, and (d) To facilitate the use of Crown land by the Aboriginal people of NSW and, where appropriate, to enable the co-management of dedicated or reserved Crown land.	Overwhelming support for objects to include protection of environmental, cultural heritage and social values. A number of submissions suggested the objects should make stronger statements about the protection of Aboriginal interests.
8. Principles of Crown land management	Existing Act specifies principles of Crown land management.	New Act will consolidate principles into the objects of the Act. Key principles retained and incorporated into clearer, more rationalised objects. New operative provisions to facilitate environmental considerations.	Overwhelming support for objects to include protection of environmental, cultural heritage and social values. A number of submissions suggested the objects should make stronger statements about the protection of Aboriginal interests.
9. Powers	Existing Act provides for the Minister to have certain powers, including the power to deal with land, grant leases and licences, create easements, and grant any interest over a Crown reserve provided that this is in the public interest	New Act will continue to provide for the Minister to have certain powers, including the power to deal with land, grant leases and licences, create easements, and grant any interest over a Crown reserve provided that this is in the public interest	See below for discussion of key issues and White Paper feedback. No significant change proposed - content to be modelised and consolidated reflecting content of existing Acts
10. Land ownership	Existing Acts provide different ways of owning or holding land, some of which were created for specific purposes eg: Crown land vested in Her Majesty Dedicated land held by trustees Reserved land deemed to be held by Trustees Land held in the name of another Minister or public authority and dealt with as if it were Crown land.	New Act will rationalise the options for how land can be owned and provide that the management arrangements for Crown reserves will be the same regardless of the type of ownership.	See below for discussion of key issues and White Paper feedback. No significant change proposed - content to be modelised and consolidated reflecting content of existing Acts

FEATURE	CURRENT ACT	PROPOSED NEW ACT	WHITE PAPER CONSULTATION / COMMENT
11. Aboriginal Interests	Not reflected in objects, principals or operative provisions	Object of new Act will provide for facilitating the use and management of Crown land by Aboriginal people. Provisions will specifically contemplate Aboriginal management of Crown reserves. Provisions will include protections for Aboriginal interests under Aboriginal land rights and native title legislation.	Submissions concerned that changes must not jeopardise land claims. New Act does not change the Aboriginal Land Rights Act 1983. Land claims will continue to be determined. Land with land claims will not be transferred to local Councils without Aboriginal Land Council consent. Aboriginal Land Councils to be involved in voluntary negotiations with local Councils using Aboriginal Land Agreement mechanisms of ALRA. Support for local control and decision making but concerns about cost shifting.
12. State & Local Land	Current Act does not include State or Local land.	New Act will presume that all land in the Crown estate is State land. Will require the Minister to have regard to Local land criteria before vesting Crown land in Councils.	Where land is of predominantly local interest, transferring it to councils will allow decisions about that land to be made by local communities. Transfers will be on a voluntary basis – there will be no forced transfers Land of State significance to be retained by the State.
13. Tenures	Existing Act provides broad powers to lease and licence Crown land. The different Acts governing Crown land contain different, and in some cases contradictory, provisions in relation to leases, including term, conversion rights, transfer rights etc.	New Act will contain broad powers to lease and licence Crown land and to grant enclosure permits. Act will comprehensive provisions relating to tenures (ie leases and licences), including in relation to rents, forfeiture and surrender. Provisions relating to Western Lands leases will be included (see below).	No significant change proposed – content to be modernised and consolidated reflecting content of existing Acts. Outside the Western Division (see below) only leasees who currently have rights to purchase the freehold of their interests without going through a public tender process will continue to have those rights.
14. Sale & Disposal	The Minister has broad powers to sell and dispose of land.	New Act will continue to provide for the sale or other disposal of Crown land. There will be more transparent and streamlined requirements for notification and advertising of proposed sales, leases and other disposals (see below).	No significant change proposed – content to be modernised and consolidated reflecting content of existing Acts. New Act will reduce three tier reserve management system to two (see below). Unanimous support for retention of the Public Reserves Management Fund.
15. Crown Reserves	The Minister has broad powers to reserve land from sale, lease or licence or for future public requirements or other public purpose	New Act will continue to provide for the reservation and dedication of land and the management of reserves. It will clearly define the method of appointment of Crown reserve managers and their role, powers and governance arrangements. Provisions will continue the Public Reserves Management Fund to raise funds to provide loans and grants for maintenance and improvements to reserves.	Was not a focus of the White Paper.
16. Dedications	Existing Act provides for dedication of Crown land for a public purpose and for revocation of dedications by notice in the Gazette and before each House of Parliament.	Dedicated land will become Crown land but with the same protections as the existing Act, including requirement to table revocations in each House of Parliament.	Strong general support for stronger compliance and enforcement provisions. Improved and up to date, effective and flexible compliance and enforcement provisions, consistent with other legislation regulating the management of public land.
17. Compliance and Enforcement	Existing Act includes provisions about the compliance and enforcement, creating certain offences and provide for the appointment and powers of authorised inspectors and persons.	New Act will include updated, comprehensive compliance and enforcement provisions. Compliance tools will suit different degrees of non-compliance. This will include provisions for auditing, remediation and removal orders, and stop work orders.	No significant change proposed – content to be modernised and consolidated reflecting content of existing Acts
18. Administrative and Miscellaneous Matters	Existing Act includes administrative and miscellaneous provisions such as the power to make regulations and provisions relating to the delegation of powers by the Minister and Secretary	New Act will include administrative and miscellaneous provisions such as the power to make regulations and provisions relating to the delegation of powers by the Minister and Secretary	Submissions highlighted importance of meaningful community consultation and that the notification in its current form is not active communication. Submissions supported new, flexible and tailored communication methods.
19. Community engagement	Existing Act contains advertising and/or gazettal requirements that must be complied with prior to a dealing with Crown land, or a change or revocation in the reserve purpose of Crown land. For example, a sale or a lease over 5 years (including options) requires newspaper advertising of the intent to sell/lease to have occurred at least 14 days prior to the sale/lease. Similar newspaper advertising requirements apply to revocations of reserves.	The legislation will not contain any requirement to advertise dealings in newspapers or in any other forum. Instead, the legislation will provide that the Minister will require the preparation of a community engagement strategy ("Strategy") in relation to certain proposals for, and dealings with, Crown Land. The community engagement strategy will set out: • which dealings or other actions (eg change in reserve purpose, revocation of reserves) require community notification/engagement, and • the level of community notification/engagement that must be undertaken. While this may include advertising, it will not be limited to advertising. Department must comply with the Strategy and Crown land managers (current reserve trusts) other than councils will also have to comply.	

FEATURE	CURRENT ACT	PROPOSED NEW ACT	WHITE PAPER CONSULTATION / COMMENT
20. Western Division	Some Western Land Leases granted for residential or business use can be converted to freehold. Pastoral leases in the Western Division cannot currently be converted.	New Act will include additional options to convert Western Land Leases granted for pastoral purposes to be converted to freehold. Criteria will consider factors such as proximity to an urban area, whether the land is capable and suitable for agricultural production, or required for urban expansion or economic growth of a region. Certain low impact activities also to be allowed under Western Lands Leases without the need for approval (eg farm tourism).	Majority of Western Land lessors who made submissions believe current system disadvantages them. Right to apply to purchase to be introduced for the Western Division with appropriate safeguards to balance environmental considerations (eg soil capability) with the provision of economic opportunities. Majority of submissions supported additional low impact activities to be undertaken on Western Lands Leases without approval.
21. Vesting – Local Councils	Existing Act enables land to be vested in local councils, subject to certain number of conditions and limitations	New Act will enable land to be vested in local councils if the Minister has had regard to "local land" criteria. Transfers will be on a voluntary basis and by agreement. Vested land will be classified as community land unless land does not fit within Local Government Act (LGA) categories of community land. Community land is subject to a detailed management regime under the LGA and cannot be sold by councils. Land vests subject to native title (unless native title extinguished or certified to be extinguished) and the Registrar-General will be required to place appropriate restrictions on title in this case. Market rent will be the default position for all holdings, other than Western Lands Leases (where the existing rent calculation formulae will continue to apply) There will be one consistent minimum rent applying across the State.	Some submissions supported local decision making. Some were concerned about cost shifting and levels of trust in councils. Where land is of predominantly local interest, transferring it to local councils will allow decisions about that land to be made by local communities. Transfers will be on a voluntary basis – there will be no forced transfers. Aboriginal Land Councils to be included in voluntary negotiations to ensure rights and interests under ALBA considered.
22. Market Rents	Existing Acts contain varying provisions about the principles for rent redeterminations, although market rent default position under Crown Lands Act	Market rent will be the default position for all holdings, other than Western Lands Leases (where the existing rent calculation formulae will continue to apply)	Market rents received significant support in submission, subject to the availability of rebates and waivers.
23. Statutory Minimum Rent	Current Acts provides for minimum rent (amount varies between different Acts).	There will be one consistent minimum rent applying across the State.	Rebates and waivers will apply to those who currently pay the lower statutory minimum rent.
24. Rebates and Waivers	Existing Act contains provisions about rebates of rent.	New Act will contain provisions to rebate rent, grant waivers of rent and/or defer payments of rent by tenure holders.	Many submissions noted that community groups etc may not be able to pay a market rental and therefore need for robust and transparent system of rebates and waivers.
25. Land Assessment	Existing Act provides for a programme for the assessment of Crown land. Minister has power to waive assessment.	New Act will not contain land assessment requirements.	Majority of submissions concerned about removal of land assessment requirements. Existing provisions not practical to implement – Minister has ability to waive requirement and generally does so. Land use better governed by a combination of the planning framework and the reserve purpose.
26. Landowners Consent	Landowners consent is required under planning legislation for all development applications on Crown land.	New Act will continue requirement for landowners consent, except for certain pre-approved low impact activities on reserves and Western Lands leases (eg installation of signage). Three tiers to be reduced to two. The trust system will be removed and the Minister will appoint a Crown Land Manager to manage the reserve. This will remove duplication and unnecessary complications while keeping in place the fundamental principle that Crown reserves are managed by groups appointed by the Minister who are charged with the care, control and management of those reserves. It will also make it more transparent as to who/what entity is actually responsible for managing a reserve. Existing reserve trust managers and boards will be automatically converted into a single Crown Land Manager, with board membership continuing unaffected	Councils supported simplifying landowners consent requirements. Support for concept of low impact activities.
27. Reserve management	Existing Act provides for three tiers – for each reserve (1), that a trust (2) is established and a third party (3) is appointed to manage the affairs of that trust.	The trust system will be removed and the Minister will appoint a Crown Land Manager to manage the reserve. This will remove duplication and unnecessary complications while keeping in place the fundamental principle that Crown reserves are managed by groups appointed by the Minister who are charged with the care, control and management of those reserves. It will also make it more transparent as to who/what entity is actually responsible for managing a reserve. Existing reserve trust managers and boards will be automatically converted into a single Crown Land Manager, with board membership continuing unaffected	Overwhelming support for the proposals to replace Reserve Trusts and Reserve Managers with one Crown Land Manager.
28. Appointment of Reserve Managers	Appointment of reserve trusts and reserve trust managers is through notification in the Gazette	Appointment of Crown Land Managers will be by notification in the Gazette and through the Minister issuing an appointment instrument	Councils, community trusts and incorporated bodies will continue to be appointed as Crown Land Manager. Legislation will not transfer control of reserves to Councils or automatically vest Crown land in councils. If local land transferred to Councils through negotiated agreement, Councils can establish community advisory groups to ensure continuing

FEATURE	CURRENT ACT	PROPOSED NEW ACT	WHITE PAPER CONSULTATION / COMMENT
29. Appointment of Board members	Trust board consists of at least 3, but not more than 7 members, appointed by the Minister by notification in the Gazette	Arrangements will be similar to current arrangements, but with added flexibility	community involvement.
30. Governance of Reserve Trusts	Existing Act has few governance provisions that do not reflect modern expectations	Detailed governance provisions will be included, including obligations on board members and ability for Minister to issue a code of conduct	Majority of submissions supported local community representation and participation in reserve management and governance. General support for high governance standards for reserve trusts.
31. Categorisation of Reserve Managers	Not provided for in existing Act	New Act will provide for two categories of Crown Land Manager, with different Ministerial approval requirements relating to each category (NB: does not apply to Councils – see below). Category 1 will be 'professional' managers- they will not seek approvals for some activities and dealings (eg leases / licences of 10 years or less). Category 2 will need to seek approval for the same dealings as all reserve trusts currently do. Unless categorised, all managers will be deemed to be Category 2. Minister will be able to require any Crown Land Manager to prepare a plan of management and make guidelines about draft plans.	
32. Plans of Management			Strong support for plans of management. Some suggestions they should be mandatory – may not always be appropriate for smaller reserves.
33. Council management of Reserves	Council manages Crown reserves in the same way as all other managers of Crown reserves. This means Councils have a difference management regime for land they own (governed by the Local Government Act) and for Crown land where they are the Reserve Trust Manager (governed by the Crown Lands Act).	Councils will generally manage Crown reserves under the Local Government Act 1993 (LGA), generally in the same manner as they manage "community land". Councils required to prepare plans of management for each reserve they manage under LGA – phased in over three years. Councils will not be able to sell or reclassify reserves without the Minister's approval. The Minister will be able to put conditions into the appointment instruments for the council and council will be required to comply with these conditions and with Ministerial rules. Councils will not generally be required to report to the Minister – existing reporting requirements under the LGA will apply	Local councils broadly supported being able to manage Crown reserves under the LGA. Some council concerns about costs of management. Funding support to be provided to Councils to assist with plan of management costs under LGA. Some concerns that Government should manage the Crown estate and oversight of councils was preferred.

Appendix 2 Local Land Pilot evaluation



Department of
Primary Industries

Local Land Pilot

Summary figures – Pilot Overall

May 2016

Summary of results from Warringah Council, Corowa Shire Council, Tamworth Regional Council, and Tweed Shire Council

- The aim of the Local Land Pilot was to test the concept of devolving land of local significance to local Councils.
- Four Councils – Warringah (metropolitan LGA), Corowa (inland rural LGA), Tamworth (regional centre LGA) and Tweed (coastal regional LGA) – participated in the Local Land Pilot with Department of Primary Industry – Lands.
- Warringah local government area, as the metropolitan council area in the pilot, has the highest population growth pressures, which in turn places pressures on open space, the environment and community use of that space.
- Tamworth local government area was the largest of the four pilot council areas with the highest number of Crown land reserves.
- Corowa local government area has a large number of Crown reserves concentrated along or close to the Murray River.
- Tweed local government area has a high number of the Crown reserves concentrated along the coastal zone where there are development, environmental pressures and community scrutiny on changes to land use.
- All four pilot Councils had a high level of engagement from management and staff within the council in the pilot process which allowed discussions to quickly develop a strong open collaborative nature between council and the Department.
- Resourcing requirements for the assessment of Crown land parcels was between 0.6 to 1.1 hours of council staff time. This was consistent across the four pilot areas.
- Table 1 summarises the results for each pilot Council and overall.
- Table 2 summarises reserves of interest to all pilot Councils.

Table 1: Summary of land classifications and Pilot Council interest

Council	Total reserves	Classification		No. of reserves council interested in	Area of reserves council interested in (ha)	Comments
		Local	State			
Warringah	240	161 (67%)	80 (33%)	150 (62% of total reserves & 93% of local land)	960 ha (40% of total reserve area)	66 of the 150 reserves council is interested in (44%) are already managed by council as reserve trust manager. 84 reserves are managed by others.
Tamworth Regional	519	169 (33%)	360 (69%)	124 (24% of total reserves & 73% of local land)	1964 ha (14% of total reserve area)	47 of the 124 reserves council is interested in (38%) are already managed by council as reserve trust manager. 77 reserves were managed by others.
Corowa Shire	186	89 (47%)	86 (46%)	49 (26% of total reserves & 55% of local land)	731 ha (18% of total reserve area)	25 of the 49 reserves council is interested in (51%) are already managed by council as reserve trust manager. 24 reserves are managed by others
Tweed Shire	226	142 (63%)	153 (68%)	66 (29% of total reserves & 46% of local land)	159 ha (9% of total reserve area)	53 of the 66 reserves council is interested in (80%) are already managed by council as reserve trust manager. 13 reserves are managed by others
All Councils combined	1171	561 (48%)	679 (58%)	389 (33% of total reserves & 69% of local land)	3814 ha (17% of total reserve area)	191 of the 389 reserves councils are interested in (49%) are already managed by council as reserve trust manager. 198 are managed by others

Table 2: Reserves of interest to All Pilot Councils - based on current management

Reserve purpose	Number of reserves
Crown reserves managed by Councils	
Parks/recreation reserves, flora & fauna reserves	171
Community centres, community purposes or heritage purposes	26
Rubbish Depot	12
Swimming pool/public baths/sporting club facilities	5
Cemeteries	12
Water reservoirs	4
Future public requirements	8
Racecourses and showgrounds	4
Boatshed	1
Local government purposes	1
Public Recreation and Coastal Environmental Protection	1
Storage	1
Tourist Facilities and Services	1
Caravan park/Caravan and camping park	6
Bushfire brigade services	6
Water reservoirs	1
Parking and access	6
Trig station	2
Access or roadway	1
Aviation purposes	1
Long daycare centre	1
Preservation of Aboriginal carvings and drawings	1
Home for the Aged	2
Sub Total	274

* This information reflects the results of the Local Land Pilot only. No decisions have been made or are proposed to be made based on these results.

(continued over)

Local Land Pilot Program

Reserve purpose	Number of reserves
Crown reserves managed by others	
Boy Scout / Girl Guide halls	10
Public Hall	1
Travelling Stock Routes	6
Future public requirements	1
Recreation	2
Rubbish depot	1
Artist environment / education facility	1
Disability services	1
Recreation reserves	8
Commons	4
Memorial hall/public hall/community hall	1
School of Arts	2
Children's playground	1
Future public requirements	1
Memorial hall/public hall/community hall	3
Showground/racecourse	1
Cemeteries, cemetery extensions, preservation of graves sites	11
Rubbish depots / nightsoil depots	5
Quarries	2
Future public requirements	17
Water supply/access to water supply	8
Access or roadway	2
Drainage	4
Church/school purposes	1
Rifle range	1
Travelling Stock Routes	1
Trig station	2
Access or roadway	2
Literary institute/School of Arts	1
Village purposes	2
Plantation	1
Wharf site	1
Rubbish depot	2
Public recreation	6
Public School purposes	2
Sub Total	115
Total	389

* This information reflects the results of the Local Land Pilot only. No decisions have been made or are proposed to be made based on these results.

© State of New South Wales through the Department of Industry, Skills and Regional Development, 2016. You may copy, distribute and otherwise freely deal with this publication for any purpose, provided that you attribute the NSW Department of Primary Industries as the owner.

Disclaimer: The information contained in this publication is based on knowledge and understanding at the time of writing (May 2016). However, because of advances in knowledge, users are reminded of the need to ensure that information upon which they rely is up to date and to check currency of the information with the appropriate officer of the Department of Primary Industries or the user's independent adviser.

Published by the Department of Primary Industries.



Department of
Primary Industries

Local Land Pilot

Summary of key findings and recommendations

November 2015

Background

The Crown Lands Management Review (March 2014) identified that Crown land management arrangements could provide greater flexibility for managing Crown land that is predominantly used by local communities. The Review recommended that the Government should retain Crown land of state significance while devolving land of local significance to a local level of ownership and management. The NSW government has explored this state and local land concept through the local land pilot, and a stocktake and strategic assessment of state lands.

Key findings

The pilot identified a number of key findings including that:

- a) Criteria need to be refined to better reflect the factors that councils take into account when making decisions on whether the local community will benefit from council owning or managing the land.
- b) A set of agreed principles be applied providing further guidance for the implementation of a local land model. These principles will underpin and guide the local land model process.
- c) The implementation of a local land model needs to be flexible to take into account the differences between metropolitan, regional and rural councils and the different needs and challenges they face.
- d) Negotiation on the ownership or management of Crown land that is identified as local land be a two-stage process involving Local Aboriginal Land Councils in tripartite negotiations with local community consultation as part of implementation of the model.

Key recommendations

1. Proposed changes to the local criteria

In light of the key findings, the local land criteria have been revised and it is recommended that these criteria be used as a guide to identifying land which may be more suitable for local government ownership or management. The recommended criteria from the pilot are as follows:

Taking into account surrounding land uses or the landscape in which the Crown land is situated, local land includes:

- Land that provides, or has the demonstrated potential to provide, consistent with local planning instruments, a public good* predominantly for people in the local government area or in adjacent local government areas;
- Land use that is consistent with the functions of local government, or land that has identified potential to be used for activities consistent with local government functions;

www.dpi.nsw.gov.au

- *Land that is managed, or has the identified potential to be managed, as a community asset by local government or some other body.*

Any land not meeting the local land criteria will default to state land.

- *Public good is a good that is neither excludable nor rival, meaning that people cannot be prevented from using a public good, and one person's enjoyment of a public good does not reduce another person's enjoyment.*

2. Proposed principles

The framework for the local land model should be guided by a set of agreed principles, noting that Local Aboriginal Land Councils have not been consulted in their development to this point. It is recommended that these agreed principles be adopted and applied in the implementation of the local land model.

- **Collaboration.** State and local government should collaborate to achieve the best outcomes in the public interest. They are jointly responsible for delivering social, economic and environmental benefits for local communities and NSW more broadly.
- **Subsidiarity.** State and local government should coordinate their activities in accordance with the principle of subsidiarity which states that matters that can be, ought to be dealt with at the local level, rather than at State level. Applying this principle will limit duplication and ensure land is owned and managed at the level most equipped to deliver the maximum social, economic and environmental outcomes for the local community, region or state.
- **Only change for the better.** Where there is no identifiable benefit in transferring land, maintaining the status quo is acceptable. Transfer of land has the potential to cause concern in communities, and should only be made where it is expected to generate benefits for one or both of the state and local governments without disadvantaging the other.
- **Complementarity.** Local land reform should not be at cross-purposes with local government reforms or other government public land management reforms.
- **Simplicity and flexibility.** Public land ownership and management should be simple and flexible to allow them to be adapted to future (unforeseen) situations. Similarly the model of land transfer itself should be flexible enough to enable regions (councils or the Department) to tailor the process according to their needs, capacity and resources.
- **Partnerships.** Key stakeholders should be identified and engaged early to partner in a diverse range of solutions relating to significant land decisions. This may include Aboriginal land organisations, and groups of adjacent councils or joint organisations of councils who may wish to collectively engage in a local land model.
- **Community engagement and volunteerism.** Local community engagement and volunteerism is highly valued by all levels of Government and should not be diminished by implementation of local land transfers.
- **Multiple use.** Crown land and local government land management practices should facilitate shared use of public land and discourage exclusive-use arrangements which lead to scarcity of community use land, or which result in the underutilisation of that land to the detriment of NSW or local communities.
- **Transparent community service obligations.** Community use of Crown and other public lands encourages vibrant and diverse communities. Community use arrangements should be transparent and fair, so as to make best use of the land and distribute costs appropriately.

2 NSW Department of Primary Industries, November 2015

3. Next steps

The local land concept will now be further progressed with initial implementation of a two-stage process within the four pilot local council areas. Any land transfers that may arise in the future will be staged, entirely voluntary and agreed through a comprehensive negotiation framework.

Stage 1 will focus on identifying and transferring ownership of those lands where all parties agree that lands are local lands, where the lands are unencumbered and there are no matters affecting the transfer of those lands (such as unresolved native title claims). It will focus on lands already managed by councils and where management costs are already borne by council. Stage 1 will commence in the second half of 2016. The first half of 2016 will involve planning the process and further engagement on the process with councils and other stakeholders, including Aboriginal Land Councils.

Stage 2 will focus on negotiations on ownership of land where there are interests from more than one party. Stage 2 negotiations will commence following agreement on Stage 1 outcomes.

© State of New South Wales through the Department of Industry, Skills and Regional Development, 2015. You may copy, distribute and otherwise freely deal with this publication for any purpose, provided that you attribute the NSW Department of Primary Industries as the owner.

Disclaimer: The information contained in this publication is based on knowledge and understanding at the time of writing (November 2015). However, because of advances in knowledge, users are reminded of the need to ensure that information upon which they rely is up to date and to check currency of the information with the appropriate officer of the Department of Primary Industries or the user's independent adviser.

Published by the Department of Primary Industries.
JTN 13685



Department of
Primary Industries

Local Land Pilot

Summary figures – Tamworth Regional Council

November 2015

Summary of Tamworth Regional Council results from the pilot

- Tamworth local government area was the largest of the four pilot council areas with the highest number of Crown land reserves.
- A total of 519 Crown land reserves were assessed and classified within the local government area. 28% of these reserves were travelling stock routes.
- Tamworth Regional Council had a high level of engagement from management and staff within the council in the pilot process which allowed discussions to quickly develop a strong open collaborative nature between council and the Department.
- Resourcing requirements for the assessment of Crown land parcels was between 0.6 to 1.1 hours of council staff time.
- Council considered 33% of these Crown reserves to be local land predominantly used by the local community. Council classified some of these reserves as both local and state land due to the reserve use and management.
- Tamworth Regional Council expressed an interest in 24% of the Crown reserves within the local government area. Council identified this interest within the Crown reserves that were classed as local land. A breakdown of the numbers is provided in Table 1.

Table 1: Summary of land classifications and Tamworth Regional Council interest

Total reserves	Classification		No. of reserves council interested in	Area of reserves council interested in (ha)	Comments
	Local	State			
519	169 (33%)	360 (69%)	124 (24% of total reserves 73% of local land)	1964 ha (14% of total reserve area)	47 of the 124 reserves council is interested in (38%) are already managed by council as reserve trust manager. 77 reserves were managed by others.

Please note: numbers of state and local land classifications do not equal total number of reserves as some reserves were classified as both state and local by Council

A full list of the reserve types that and council was interested in are presented in Table 2.

Table 2: Reserves of interest to Tamworth Regional Council based on current management type

Reserve purpose	Number of reserves
Crown reserves managed by Council	
Parks/recreation reserves, flora & fauna reserves	39
Rubbish Depot	11
Community centres, community purposes or heritage purposes	9
Cemeteries	6
Water reservoirs	4
Racecourses and showgrounds	3
Swimming pool/public baths/sporting club facilities	2
Future public requirements	1
Crown reserves managed by others	
Travelling Stock Routes	6
Future public requirements	1
Recreation	1
Rubbish depot	1
Memorial hall/public hall/community hall	3
Recreation reserves	2
School of Arts	1
Children's playground	1
Future public requirements	1
Future public requirements	10
Water supply/access to water supply	8
Cemeteries, cemetery extensions, preservation of graves sites	4
Access or roadway	2
Drainage	2
Rubbish depots / nightsoil depots	2
Church/school purposes	1
Rifle range	1
Travelling Stock Routes	1
Public School purposes	1
Total	124

* This information reflects the results of the Local Land Pilot only. No decisions have been made or are proposed to be made based on these results.



Department of
Primary Industries

Local Land Pilot

Summary figures - Tweed Shire Council

November 2015

Summary of Tweed Shire Council results from the pilot

- A total of 226 Crown land reserves were assessed and classified within the Tweed Shire local government area as part of the Local Land Pilot.
- There was a high level of engagement from Council officers in the pilot process which allowed discussions to develop a strong open collaborative nature.
- Resourcing requirements for the assessment of Crown land parcels was between 0.6 to 1.1 hours of council staff time.
- Council considered 63% of all Crown reserves within the Shire to be 'local land' predominantly used by the local community. Council classified some of these reserves as both local and state land due to its use and management.
- Council expressed an interest in 29% of the Crown reserves within the Shire. A breakdown of the numbers is provided in Table 1.
- A high number of the Crown reserves within Tweed local government area are concentrated along the coastal zone where there are development, environmental pressures and close community scrutiny on changes to land use.

Table 1: Summary of land classifications and Tweed Shire Council interest*

Total reserves	Classification		No. of reserves council interested in	Area of reserves council interested in (ha)	Comments
	Local	State			
226	142 (63%)	153 (68%)	66 (29% of total reserves 46% of local land)	159 ha (9% of total reserve area)	53 of the 66 reserves council is interested in (80%) are already managed by council as reserve trust manager. 13 reserves are managed by others

Please note: numbers of state and local land classifications do not equal total number of reserves as some reserves were classified as both state and local by Council

A full list of the reserve types that and council was interested in are presented in Table 2.

Table 2: Reserves of interest to Tweed Shire Council based on current management*

Reserve purpose	Number of reserves
Crown reserves managed by Council	
Parks/recreation reserves, flora & fauna reserves	28
Cemeteries	6
Caravan park/Caravan and camping park	6
Bushfire brigade services	2
Swimming pool/public baths/sporting club facilities	2
Community centres, community purposes or heritage purposes	1
Future public requirements	1
Water reservoirs	1
Home for the Aged	1
Boatshed	1
Local government purposes	1
Public Recreation and Coastal Environmental Protection	1
Storage	1
Tourist Facilities and Services	1
Crown reserves managed by others	
Future public requirements	5
Village purposes	2
Plantation	1
Wharf site	1
Public School purposes	1
Rubbish depot	1
Drainage	1
Public recreation	1
Total	66

* This information reflects the results of the Local Land Pilot only. No decisions have been made or are proposed to be made based on these results.

© State of New South Wales through the Department of Industry, Skills and Regional Development, 2015. You may copy, distribute and otherwise freely deal with this publication for any purpose, provided that you attribute the NSW Department of Primary Industries as the owner.

Disclaimer: The information contained in this publication is based on knowledge and understanding at the time of writing (November 2015). However, because of advances in knowledge, users are reminded of the need to ensure that information upon which they rely is up to date and to check currency of the information with the appropriate officer of the Department of Primary Industries or the user's independent adviser.



Department of
Primary Industries

Local Land Pilot

Summary figures – Warringah Council

November 2015

Summary of Warringah Council results from the pilot

- Warringah local government area, whilst being the smallest local government area, as the metropolitan council area in the pilot, it has the highest population growth pressures which places pressures on open space, the environment and community use of that space.
- A total of 240 Crown land reserves were assessed and classified within the local government area.
- Warringah Council had a high level of engagement from management and staff within the council in the pilot process which allowed discussions to quickly develop a strong open collaborative nature between council and the Department.
- Resourcing requirements for the assessment of Crown land parcels was between 0.6 to 1.1 hours of council staff time.
- Council considered 67% of these Crown reserves to be local land predominantly used by the local community.
- Warringah Council expressed an interest in 62% of the Crown reserves within the local government area. A breakdown of the numbers is provided in Table 1.

Table 1: Summary of land classifications and Warringah Council interest

Total reserves	Classification		No. of reserves council interested in	Area of reserves council interested in (ha)	Comments
	Local	State			
240	161 (67%)	80 (33%)	150 (62% of total reserves 93% of local land)	960 ha (40% of total reserve area)	66 of the 150 reserves council is interested in (44%) are already managed by council as reserve trust manager. 84 reserves are managed by others.

Please note: numbers of state and local land classifications do not equal total number of reserves as some reserves were classified as both state and local by Council or due to data discrepancies with the Crown land parcels.

A full list of the reserve types that council was interested in are presented in Table 2.

Table 2: Reserves of interest to Warringah Council based on current management type

Reserve purpose	Number of reserves
Crown reserves managed by Council	
Parks/recreation reserves, flora & fauna reserves	90
Community centres, community purposes or heritage purposes	12
Future public requirements	6
Parking and access	6
Bushfire brigade services	4
Trig station	2
Racecourses and showgrounds	1
Access or roadway	1
Aviation purposes	1
Long daycare center	1
Preservation of Aboriginal carvings and drawings	1
Crown reserves managed by others	
Boy Scout / Girl Guide halls	7
Recreation	1
Artist environment / education facility	1
Disability services	1
Recreation reserves	1
Public recreation	5
Future public requirements	2
Trig station	2
Access or roadway	2
Literary institute/School of Arts	1
Rubbish depot	1
Drainage	1
Total	150

* This information reflects the results of the Local Land Pilot only. No decisions have been made or are proposed to be made based on these results.

© State of New South Wales through the Department of Industry, Skills and Regional Development, 2015. You may copy, distribute and otherwise freely deal with this publication for any purpose, provided that you attribute the NSW Department of Primary Industries as the owner.

Disclaimer: The information contained in this publication is based on knowledge and understanding at the time of writing (November 2015). However, because of advances in knowledge, users are reminded of the need to ensure that information upon which they rely is up to date and to check currency of the information with the appropriate officer of the Department of Primary Industries or the user's independent adviser.

Published by the Department of Primary Industries.
JTN 13685



Department of
Primary Industries

Local Land Pilot

Summary figures – Corowa Shire Council

November 2015

Summary of Corowa Shire Council results from the pilot

- Corowa local government area has a large number of Crown reserves concentrated along or close to the Murray river.
- A total of 186 Crown land reserves were assessed and classified within the local government area.
- Corowa Shire Council had a high level of engagement from management and staff within the council in the pilot process which allowed discussions to quickly develop a strong open collaborative nature between council and the Department.
- Resourcing requirements for the assessment of Crown land parcels was between 0.6 to 1.1 hours of council staff time.
- Council considered 47% of these Crown reserves to be local land predominantly used by the local community.
- Corowa Shire Council expressed an interest in 26% of the Crown reserves within the local government area. A breakdown of the numbers is provided in Table 1.

Table 1: Summary of land classifications and Corowa Shire Council interest

Total reserves	Classification		No. of reserves council interested in	Area of reserves council interested in (ha)	Comments
	Local	State			
186	89 (47%)	86 (46%)	49 (26% of total reserves 55% of local land)	731 ha (18% of total reserve area)	25 of the 49 reserves council is interested in (51%) are already managed by council as reserve trust manager. 24 reserves are managed by others

Please note: numbers of state and local land classifications do not equal total number of reserves as some reserves were classified as both state and local by Council or due to data discrepancies with the Crown land parcels.

A full list of the reserve types that council was interested in are presented in Table 2.

Local Land Pilot Program Summary report – Corowa Shire Council

Table 2: Reserves of interest to Corowa Shire Council based on current management type

Reserve purpose	Number of reserves
Crown reserves managed by Council	
Parks/recreation reserves, flora & fauna reserves	14
Community centres, community purposes or heritage purposes	4
Rubbish Depot	1
Swimming pool/public baths/sporting club facilities	1
Home for the Aged	1
Crown reserves managed by others	
Boy Scout / Girl Guide halls	3
Public Hall	1
Recreation reserves	5
Commons	4
Memorial hall/public hall/community hall	1
School of Arts	1
Showground/racecourse	1
Cemeteries, cemetery extensions, preservation of graves sites	7
Rubbish depots / nightsoil depots	3
Quarries	2
Total	49

* This information reflects the results of the Local Land Pilot only. No decisions have been made or are proposed to be made based on these results.

© State of New South Wales through the Department of Industry, Skills and Regional Development, 2015. You may copy, distribute and otherwise freely deal with this publication for any purpose, provided that you attribute the NSW Department of Primary Industries as the owner.

Disclaimer: The information contained in this publication is based on knowledge and understanding at the time of writing (November 2015). However, because of advances in knowledge, users are reminded of the need to ensure that information upon which they rely is up to date and to check currency of the information with the appropriate officer of the Department of Primary Industries or the user's independent adviser.

Published by the Department of Primary Industries.
JTN 13685

Appendix 3 Submissions

No	Author
1	Name suppressed
2	Mr Kevin Eadie
2a	Mr Kevin Eadie
3	Confidential
4	Ms Morgan (no surname)
5	Mrs Julia Meare
6	Name suppressed
7	Miss Mandy Dodds
8	Name suppressed
9	Name suppressed
10	Ms Carolyn Kearney
11	Mr Matthew Tilbury
12	Name suppressed
13	Mr Tim Murray
14	Mr Adrian Newstead OAM
15	Mr Douglas Williamson
16	Mr Lewis Hanley
17	Ms Baldwin
18	Name suppressed
19	Confidential
20	Ms Marcelle Hoff
21	Name suppressed
22	Ms Ann Edvall
23	Ms Lea Hill
24	Confidential
25	Name suppressed
26	Ms Camilla Hamilford
27	Miss Monica Lawler
28	Mr Rob MacQueen

29	Mr Chris Owens
30	Mr Michael Powell
31	Name suppressed
32	Mr John Macarthur
33	Mr Julian Porter
34	Ms Halina MacQueen
35	Confidential
36	Name suppressed
37	Confidential
37a	Confidential
38	Dr Kevin McDonnell
39	Mr Dale Curtis
40	Name suppressed
41	Vaocluse Bowling Club
42	Name suppressed
43	Ms Lowana Chapman
44	Mr Ian Bailey
45	Mr Barry Kemp
46	Mr Simon C Mallender
47	Ms Vera Yee
48	Confidential
49	Ms Merrill Witt
50	Mr Jeffrey Spargo
51	Mrs Jacqueline Franklin
52	Mr Richard Stanford
53	Confidential
54	Mrs Sharyn Vogels
55	Confidential
56	Mrs Felicity Crombach
57	Name suppressed
58	Mr Stephen Lord
59	Mr Dan Endicott

60	Save Bondi Pavilion
61	Mrs Sylvia Cooper
62	Ms Beverley Maunsell
63	Mr Andreas Dalman
64	Confidential
65	Name suppressed
66	Mr Peter Cormick
67	Ms Leigh Allen
68	Mr Al Bloom
69	Friends of Adams Lead
70	Wollondilly Macarthur Mountain Bicycle Club
71	Ryde Hunters Hill Flora and Fauna Preservation
72	Sutherland Shire Council
73	Griffith City Council
74	Ms Emily Suryn
75	Ms Glenda Gartrell
76	Name suppressed
77	Sandy Point Progress Association
78	Mr Peter Broderick
79	Wentworth Shire Council
80	Ms Katherine Knight
81	Mr Richard Murray
82	Port Macquarie-Hastings Council
83	Mr Matthew Monk
84	Mr Robert Burns
85	Confidential
86	Sisters of Mercy Parramatta
87	Brunswick Heads Progress Association
87a	Brunswick Heads Progress Association
88	Dr Ted Nixon
89	Birding NSW
90	Stockton Bowling Club

91	Save The Jack Evans Boat Harbour
92	Confidential
93	NSW Apiarists' Association
94	Name suppressed
95	Moree Plains Shire Council
96	Mr Brendan Pell
97	Mr Brian Suters
98	Confidential
99	Ms Alice Kershaw
100	Lane Cove Bushland and Conservation Society Inc
101	Caravan and Camping Industry Association of NSW Ltd
102	Wollongong Neighbourhood Forum 5
103	City of Parramatta Council
104	Hunter Environment Lobby Inc
105	Keep Sydney Beautiful
106	Friends of the Koala, Inc.
107	Huskisson Woollamia Community Voice Inc.
108	Name suppressed
109	Dirawong Reserve Trust Board
110	NSW Crown Holiday Parks Trust
111	Parkes Shire Council
112	Environmentally Concerned Citizens of Orange
113	Valley Watch Inc
114	Shoalhaven City Council
115	Parklands Albury Wodonga Ltd
116	Nature Conservation Council of NSW and National Parks Association of NSW
117	Friends of King Edward Park Inc.
118	Stop Arms Fairs In Eurobodalla
119	Mudgee District Environment Group
120	Tweed Wollumbin Aboriginal Education Consultative Group
121	Save Collingwood Beach
122	Central West Environment Council

123	Brunswick Heads Foreshore Protection Group
124	Ballina Environment Society
125	Lake Wollumboola Protection Association Inc
126	Local Government NSW
127	NSW Aboriginal Land Council
128	NSW Government
129	Campbelltown City Council
130	City of Sydney
131	Lismore City Council
132	Collingwood Beach Preservation Group
132a	Collingwood Beach Preservation Group
133	Orange City Council
134	Cooks River Titans Football Club
135	Jervis Bay Regional Alliance
136	Port Macquarie Chamber of Commerce
137	Cumberland Bird Observers Club Inc
138	Castlecrag Progress Association
139	Saving Sydneys Trees
139a	Saving Sydneys Trees
140	Knitting Nannas against Gas, Armidale Loop
141	New England Greens Armidale Tamworth
142	Armidale Action on Coal Seam Gas and Mining
143	Nowra group of the Australian Plants Society (NSW)
144	Clarence Valley Conservation Coalition Inc
145	Tweed District Residents & Ratepayers Assoc
146	Greenwich Community Association Inc
147	Environmental Defenders Office NSW
148	Canterbury-Bankstown Council
149	Crown Land Our Land
150	Jerrinja Local Aboriginal Land Council
151	Duffys Forest Residents Association
152	South West Anglers Association Inc

153	Narooma Branch of the ALP
154	Save Central Coast Reserves
155	Clarence Branch Climate Change Australia
156	Protect Our Parks Incorporated
157	Soilco Pty Ltd & Australian Organics Recycling Association Ltd
158	NSW Council of Freshwater Anglers
159	Gunnedah Shire Council
160	Hilltops Council
161	North Parramatta Residents Action Group Inc.
162	Nature Conservation Trust of NSW
163	The Recreational Fishing Alliance of NSW
164	Better Planning Network
165	Tomaree Ratepayers and Residents Association
166	Port Stephens Greens
167	Willoughby Environmental Protection Association (WEPA)
168	Tweed Shire Council
169	St Albans Common Trust
170	Combined Action to Retain Routes for Travelling Stock
171	Armidale Branch of National Parks Association
172	Australian Coservation Foundation- Central Coast Branch
173	The Great Western Walk
174	Clarence Environment Centre
175	Bourke Shire Council
176	Surfrider Foundation
177	Mrs Carolyn Hashimoto
178	Mr Graeme Batterbury
179	Tourism and Transport Forum
180	Blue Mountains City Council
181	Mr David Dight
182	Mr John Hextall and Ms Janet Moore
183	Mr Julie Claridge
184	Ms Jackie McDonald

185	Ms Glenda Harward Nalder
186	Ms Margaret Hope
187	Myall River Action Group
188	Ms Margaret Hogg
189	Ms Rosalind Helyard
190	Confidential
191	Mr Peter Martyn
192	Mr Paul Links
193	Ms Lindy Smith
194	Confidential
195	Mr Mark Mann
196	Mr Janet McCubbin
197	Ms Janet Harwood
198	Name suppressed
199	Keep Rail on the Corridor
200	Mr James Philips
201	Confidential
202	Ms Margareta Keal
203	Confidential
204	Ms Vivien Ward
205	Mr Andrew Dundas
206	Ms Margaret Hope
207	Mrs Helen Schwarz
208	Ms Anni Haque
209	Dr Elisabeth Karplus
210	Ms Bronwyn Morris
211	Ms Wendy Harmer
212	Dr Stephen Haswell
213	Mr Warren Wallamulla
214	Ms Maria Bradley
215	Mr Tony Thompson
216	Ms Sharon Lashbrooke

217	Federation of Hunting Clubs
218	Surf Life Saving NSW
219	Ms Cynthia Brook
220	Name suppressed
221	Darkinjung Local Aboriginal Land Council
222	NSW Farmers Association
223	Wollongong City Council
224	Confidential
225	Central NSW Councils (Centroc)
226	Snowy Monaro Regional Council
227	Mr Peter Henderson
228	Mr Chris Grounds
229	Agricultural Societies Council of NSW
230	Mr Peter Sansom
231	Confidential
232	Paul Jackson
233	Name suppressed
234	Ms Nizza Siano
235	Mr Dragan Djukic
236	Mrs Luciane Da Silva Djukic
237	Ms Robin Hanson
238	Name suppressed
239	Mr Greg McCarry
240	Dr Tatiana Paipetis
241	Belrose Rural Community Organisation
242	Mr Lachlan Sims
243	Mr Andrew Valja
244	Mrs Susanna Pieterse
245	Mrs Jennifer Kenna
246	Mosman Municipal Council
247	Mr Chris Roche
248	Name suppressed

249	Ms Julia Imrie
250	Name suppressed
251	Mr John Stuchbery
252	Mrs Jenni Stuchbery
253	Scouts Australia NSW
254	Ms Lynne Saville
255	Professor Carmel Livingstone
256	Lithgow City Council
257	Mr D A Baggaley
258	Ms Margaret Pontifox OAM
259	Mr Donald R Woolley
260	Friends of Trumper Park
261	Mr John Owens
262	Northern Beaches Council
263	Campbelltown City Council
264	Ms Gael Davies
265	Mangrove Mountain Districts Community Group Inc.
265a	Mangrove Mountain Districts Community Group Inc.
266	Mr Gary Jackson
267	Ms Jane Anderson
268	Mr Paul Beckett
269	Ms Amie Raz
270	-
271	Ms Gillian Bishop
272	Lane Cove Council
273	City of Canada Bay
274	Ms Diane Smith
275	Orana Regional Organisation of Councils
276	Mr David Fuller
277	Name suppressed
278	Australian Plants Society NSW Ltd Northern Beaches
279	Garigal Landcare

280	Name suppressed
281	Mrs Cita Murphy
282	Mrs Margaret Ostinga
283	Ms Georgina San Roque
284	Mrs Louise Dortins
285	Ms Christine King
286	Ms Wendy White
287	Mr Peter Neaum
288	Ms Julie Marlow
289	Professor Helen Armstrong
290	Name suppressed
291	Mrs Jane Broderick
292	Name suppressed
293	Ms Lynda Newnam
294	13 residents of Greenwich
294a	13 residents of Greenwich
295	Name suppressed
296	Mr Malcolm Fisher
297	Name suppressed
298	Ms Inara Molinari
299	Ms Robyn Charlton
300	Ms Kate Watson
301	The Mosman Parks & Bushland Association Inc
302	Mr Jim Donovan
303	Ms Claire Bettington
304	Dr Stephen Lightfoot
305	Confidential
306	Dr Mary MacGibbon
307	Ms Conny Harris
308	Name suppressed
309	Mrs Elizabeth Thwaites
310	Mr David Freeland

311	Confidential
312	Mr Peter Conigrave
312a	Mr Peter Conigrave
313	Mrs Jane Paul
314	Ms Emma Brooks Maher
315	Daroo Orange Urban Landcare Group
316	Mr Peter Prineas
317	Mrs Janet Fairlie-Cunninghame
318	Name suppressed
319	Ms Madeline Fountain
320	Ms Diane O'Mara
321	Ms Keelah Lam
322	Canberra Region Joint Organisation
323	Name suppressed
324	Ms Catherine Moore
325	Mr John Diamond
326	Mrs Anne Reeves
327	Name suppressed
328	Name suppressed
329	Caldera Environment Centre
330	Ms Yasmin Catley MP
331	Name suppressed
332	Friends of Narrabeen Lagoon Catchment
333	Name suppressed
334	Mr Peter Donley
335	Association for Berowra Creek
336	Mr John Wiggin
337	Mrs Ingrid Maganov
338	Ms Janine Kitson
339	Name suppressed
340	Name suppressed
341	Save Our Rail NSW Inc

342	Pottsville Community Association
343	Mr Paul Vale
344	Name suppressed
345	Blue Mountains Conservation Society
346	NTSCORP
347	The Law Society of New South Wales
348	Boating Industry Association
349	Inner West Council
350	Mojo Surf
350a	Mojo Surf
351	Muddy Creek Boating and Amateur Fishing Association Inc.
352	Ms Clara Jones
353	Mr Stephen Choularton
354	Planning Institute of Australia
355	Save Christison Park Action Group (SCPAG)

Appendix 4 Witnesses at hearings

Date	Name	Position and Organisation
Friday 29 July 2016 Macquarie Room Parliament House	Cr Anne Dennis	Deputy Chairperson NSW Aboriginal Land Council
	Mr Stephen Hynd	Director of Government Relations NSW Aboriginal land Council
	Mr Stephen Wright	Registrar, Office of the Registrar <i>Aboriginal Land Rights Act 1983 (NSW)</i>
	Mr Nathan Moran	Chief Executive Officer Metropolitan Local Aboriginal Land Council
	Ms Yvette Andrews	Manager, Community Consultation City of Sydney Council
	Ms Samantha Urquhart	Manager, Property Division City of Sydney Council
	The Hon Niall Blair MLC	Minister for Primary Industries, Minister for Lands and Water
	Ms Alison Stone	Deputy Director General Department of Industry – Lands
	Mr David Clarke	Group Director, Governance and Strategy, Department of Industry – Lands
	Mr David McPherson	Group Director Regional Services Department of Industry – Lands
	Ms Donna Rygate	Chief Executive Officer Local Government NSW
	Mr Shaun McBride	Senior Policy Manager Local Government NSW

Date	Name	Position and Organisation
Monday 1 August 2016 The Gallery Room Shoalhaven Entertainment Centre	Mr Russ Pigg	General Manager Shoalhaven City Council
	Mr Peter Coyte	Manager Property & Recreation Wollongong City Council
	Ms Lee Furness	Director Corporate Policy Shellharbour City Council
	Ms Gabrielle Cusack	Executive Officer, Canberra Region Joint Organisation
	Mr Peter Smith	Director Environment Services, Snowy Monaro Regional Council
	Mr Rob Addison	Property Manager, Eurobodalla Shire Council
	Mr Tim Geyer	Manager Parks & Garden, Queanbeyan- Palerang Regional Council
	Mr Greg Peterson	Chief Executive Officer, Nowra Local Aboriginal Land Council
	Uncle Sonny Simms	Community Elder
	Mr Mark Corrigan	Save Collingwood Beach
	Mr Garry Kelson	Chair, Husskisson Woollamia Community Voice
	Ms Frances Bray PSM	President, Lake Wollumboola Protection Association Inc
	Mr Bob Pullinger	Coordinator, Collingwood Beach Preservation Group
	Ms Dawn Thompson	Member of Executive Committee, Collingwood Beach Preservation Group
	Mr Noel Rosskelly	Member of Executive Committee, Collingwood Beach Preservation Group
	Mr Tony Emery	Director, Soilco Pty Ltd
	Ms Louise Webb	Committee member, Stop Arms Fairs in Eurobodalla
	Mr Jim Bright	Committee member, Stop Arms Fairs in Eurobodalla

Date	Name	Position and Organisation
Tuesday 2 August 2016 Starlite Rooms Dubbo RSL Club	Cr Bill McAnally	Chair, Orana Regional Organisation of Councils (OROC) and Mayor, Narromine Shire Council
	Mr Ashley Wielinga	General Manager, Warren Shire Council, and Member of Orana Regional Organisation of Councils (OROC)
	Ms Jenny Bennett	Executive Officer, Central NSW Councils (CENTROC)
	Ms Michelle Catlin	Manager, Administration and Governance, Orange City Council
	Mr Darren Toomey	Chief Executive Officer, Dubbo Local Aboriginal Land Council
	Mr Stephen Ryan	Member, Dubbo Local Aboriginal Land Council and Councillor, Central Region of NSW Aboriginal Land Council
	Mr Hamish Thompson	President, Combined Action to Retain Routes for Travelling Stock Group
	Mr Ray Penfold	Member, Combined Action to Retain Routes for Travelling Stock Group
	Ms Ruth Penfold	Member, Combined Action to Retain Routes for Travelling Stock Group
	Mr Philip Dartnell	Consultant, Combined Action to Retain Routes for Travelling Stock Group
	Ms Bev Smiles	Secretary, Central West Environment Council
	Ms Cilla Kinross	President, Central West Environment Council
	Mr Nick King	President, Environmentally Concerned Citizens of Orange
	Mr Ross Harris	Land Utilisation Officer, Moree Plains Shire Council
Wednesday 3 August 2016 Island Room Ballina Island Motor Inn	Ms Nela Turnbull	Legal Services Officer, Tweed Shire Council
	Mr Ross Davies	Coordinator, Contracts & Property Services, Lismore City Council
	Mr Mark Arnold	Executive Director, Corporate and Community Services, Byron Shire Council
	Mr Paul Hickey	General Manager, Ballina Shire Council
	Mr Andrew Leach	Manager Asset Planning, Richmond Valley Council

Date	Name	Position and Organisation
Monday 8 August 2016 Hunter Room Newcastle City Hall	Mr Marcus Schintler	Manager, Corporate Services (Governance), Kyogle Council
	Mr David Brown	Chief Executive Officer, Jali Local Aboriginal Land Council
	Ms Leweena Williams	Chief Executive Officer, Tweed Byron Local Aboriginal Land Council
	Mr John Dunn	President, Brunswick Heads Progress Association
	Ms Leone Bolt	Member, President, Brunswick Heads Progress Association
	Mr Sean O'Meara	Member, President, Brunswick Heads Progress Association and Brunswick Heads Foreshore Protection Group
	Dr Lynette Walker	Secretary, Ballina Environment Society
	Mr Craig Zerk	Member, Ballina Chamber of Commerce and Port Ballina Taskforce
	Mr Ray Karam	Member, Ballina Chamber of Commerce and Port Ballina Taskforce
	Mr Steve Edmonds	Chief Executive Officer, NSW Crown Lands Holiday Parks Trust
	Mr Brad Shiels	Executive Manager Operations, NSW Crown Lands Holiday Parks Trust
	Ms Maria Matthes	Member, Friends of the Koala Inc
	Mr Roger Stephan	Chief Executive Officer, Strategic Services Australia Ltd (Hunter Joint Organisation of Councils)
	Mr Craig Deasey	General Manager, Dungog Shire Council
	Mr Gordon Laffan	Chief Executive Officer, Stockton Bowling Club Co-op
	Ms Fiona Britten	Convenor, Stockton Community Forum
	Mr Kim Ostinga	President, Friends of King Edward Park
	Dr John Lewer	Vice President, Friends of King Edward Park
	Ms Margaret Ostinga	Member, Friends of King Edward Park
	Mr Sean Gordon	Chief Executive Officer, Darkinjung Local Aboriginal Land Council
Monday 8 August 2016 Park View Room, Central Coast Leagues Club Gosford	Ms Lynne Hamilton	Planning and Development Manager, Darkinjung Local Aboriginal Land Council
	Mr David Abrams	Member, Gosford Waterfront Alliance
	Ms Sue Chidgey	Member, Save Central Coast Reserves

Date	Name	Position and Organisation
Monday 15 August 2016 Macquarie Room Parliament House	Mr Michael Carapiet	Former, Chairman, Crown Lands Review Steering Committee
	Mr Bruce White	Sydney Branch NSW Apiarists' Association
	Mr David Peters	President, Agricultural Societies Council of NSW
	Mr Peter Gooch	Vice President, Agricultural Societies Council of NSW
	Mr Don Barton	President, NSW Council of Freshwater Anglers
	Mr Malcolm Poole	Member, Recreational Fishing Alliance of NSW and Member, NSW Anglers Access Reserve Trust
	Ms Kilty O'Brien	Convenor, Save Bondi Pavilion Action Group
	Mr Peter Winkler	Member, Save Bondi Pavilion Action Group
	Ms Lesley Scott	Co-convenor, Friends of Trumper Park, formerly Friends of Quarry Street
	Dr Oisin Sweeney	Chair, Jervis Bay Regional Alliance
	Mrs Suzette Meade	President, North Parramatta Residents Action Group
	Mr Jon Hillman	Vice President, North Parramatta Residents Action Group
	Ms Emma Brooks-Maher	Secretary, Crown Land Our Land
	Mrs Cheryl Borsak	Team leader, Crown Land Our Land
	Mr John Owens	Private individual
	Ms Kate Smolski	Chief Executive Officer, Natural Conservation Council of NSW
	Ms Cerin Loane	Policy and Research Coordinator, Nature Conservation Council of Australia
	Mr Kevin Evans	Chief Executive Officer, National Parks Association of NSW
	Mr Richard Green	Chairperson, United Land Councils
	Mr Nicholas Peterson	Strategy and Legals Executive, United Lands Councils
	Mr Hussein Faraj	Chief Executive Officer, United Lands Councils and United First Peoples Syndications
	Mr Michael Anderson	Deputy Chair, United Lands Councils

Date	Name	Position and Organisation
	The Hon Niall Blair MLC	Minister for Primary Industries, Minister for Lands and Water
	Ms Alison Stone	Deputy Director General, Department of Industry – Lands
	Mr David Clarke	Group Director Governance and Strategy, Department of Industry – Lands
	Mr David McPherson	Group Director Regional Services, Department of Industry – Lands

Appendix 5 Minutes

Minutes No. 27

Thursday 23 June 2016

General Purpose Standing Committee No. 6

Members' Lounge, Parliament House, Sydney at 2.05 pm

1. Members present

Mr Green, *Chair*

Mr Amato, *Deputy Chair*

Ms Cusack

Mr Farlow

Mr Mookhey

Mr Shoebridge

Mr Veitch (*substituting for Mr Wong*)

2. Inquiry into Crown Land

2.1 Terms of reference

The committee noted the following terms of reference referred by the House on 23 June 2016:

1. That this House notes that:
 - (a) the Crown land estate in New South Wales covers approximately 33 million hectares of land, representing 42 per cent of the state,
 - (b) Crown land, held by the state of New South Wales, is under pressure from privatisation and private development, and
 - (c) the citizens of New South Wales value Crown and public land as a public asset to be used for the benefit of all.
2. That, notwithstanding the allocation of portfolios to the General Purpose Standing Committees, General Purpose Standing Committee No. 6 inquire into and report on Crown land in New South Wales, and in particular:
 - (a) the extent of Crown land and the benefits of active use and management of that land to New South Wales,
 - (b) the adequacy of community input and consultation regarding the commercial use and disposal of Crown land,
 - (c) the most appropriate and effective measures for protecting Crown land so that it is preserved and enhanced for future generations, and
 - (d) the extent of Aboriginal Land Claims over Crown land and opportunities to increase Aboriginal involvement in the management of Crown land.
3. That, with the agreement of the committee, participating members' travel costs be covered by the committee.
4. That the committee report by 13 October 2016.

2.2 Closing date for submissions

Resolved, on the motion of Mr Shoebridge: That the closing date for submissions be Sunday 24 July 2016.

2.3 Stakeholder list

Resolved, on the motion of Mr Shoebridge: That the secretariat email members with a list of stakeholders to be invited to make written submissions, including local councils and local Aboriginal land councils, and that members have two days from the email being circulated to nominate additional stakeholders.

2.4 Advertising

The committee noted that the inquiry will be advertised via twitter, stakeholder letters and a media release distributed to all media outlets in New South Wales.

2.5 Hearing dates

Resolved, on the motion of Mr Farlow: That the committee hold hearings on the following dates, subject to the secretariat confirming these dates with members:

- Friday 29 July, Sydney
- Monday 1 August, Shoalhaven
- Tuesday 2 and Wednesday 3 August, Dubbo and Ballina
- Monday 8 August, Newcastle and Gosford
- Monday 15 August, Sydney.

3. Adjournment

The committee adjourned at 2.15 pm, *sine die*.

Rebecca Main
Clerk to the Committee

Minutes no. 28

Friday 29 July 2016

General Purpose Standing Committee No. 6

Macquarie Room, Parliament House, Sydney at 9.00 am

1. Members present

Mr Green, *Chair*
Mr Amato, *Deputy Chair*
Mr Farlow
Mr Khan (*substituting for Ms Cusack*)
Mr Primrose
Mr Shoebridge
Mr Veitch

2. Apologies

Ms Cusack

3. Previous minutes

Resolved, on the motion of Mr Farlow: That draft minutes no. 27 be confirmed.

4. Correspondence

The committee noted the following items of correspondence:

Received

- 29 June 2016 – Email from Opposition Whip, advising that Mr Primrose and Mr Veitch will substitute for Mr Mookhey and Mr Wong for the duration of the inquiry
- 18 July 2016 – Letter from David Niven, Fairfield Local Emergency Management Committee to Mr Paul Green, Committee Chair regarding evacuation management plan.

Sent

- 27 July 2016 – Letter from Chair to Ms Shelley Hancock MP, Member for South Coast, advising of the public hearing in the Shoalhaven on 1 August 2016.
- 27 July 2016 – Letter from Chair to the Hon Troy Grant MP, Member for Dubbo, advising of the public hearing in Dubbo on 2 August 2016.
- 27 July 2016 – Letter from Chair to Ms Tamara Smith MP, Member for Ballina, advising of the public hearing in Ballina on 3 August 2016.
- 27 July 2016 – Letter from Chair to Mr Tim Crakanthorp MP, Member for Newcastle, advising of the public hearing in Newcastle on 8 August 2016.

5. Inquiry into Crown land in New South Wales

5.1 Public submissions

The following submissions were published by the committee clerk under the authorisation of the resolution appointing the committee: submission nos. 1-2, 4-18, 20-23, 25-34, 36, 38-47, 49-54, 56-63, 65-84, 86-91, 93-97, 99-132.

5.2 Partially confidential submissions

The following submissions were partially published by the committee clerk under the authorisation of the resolution appointing the committee: submission nos. 1, 6, 8, 9, 12, 18, 21, 25, 31, 36, 40, 42, 53, 57, 65, 76, 94 and 108. The committee should now consider keeping certain information confidential.

Resolved, on the motion of Mr Shoebridge: That the committee keep the following information confidential, as per the request of the author: names and/or identifying information in submissions nos. 1, 6, 8, 9, 12, 18, 21, 25, 31, 36, 40, 42, 53, 57, 65, 76, 94 and 108.

5.3 Confidential submissions

The following submissions were considered for confidentiality: nos 3, 19, 24, 35, 37, 37a, 48, 55, 64, 85, 92 and 98.

Resolved, on the motion of Mr Shoebridge: That the committee keep submission nos. 3, 19, 24, 35, 37, 37a, 48, 55, 64, 85, 92 and 98 confidential, as per the request of the author.

5.4 Filming of public hearing 29 July 2016

The committee noted that the public hearing would be filmed for use in committee training workshops.

5.5 Allocation of question time

The committee noted that under the resolution establishing general purpose standing committees, the sequence of questions at hearings is to alternate between opposition, crossbench and government members, with equal time allocated to each, unless the committee decides otherwise.

5.6 Public hearing

Witnesses, the public and media were admitted.

The Chair made an opening statement regarding the broadcasting of proceedings and other matters.

The following witnesses were sworn and examined:

- Cr Anne Dennis, Deputy Chairperson, NSW Aboriginal Land Council
- Mr Stephen Hynd, Director of Government Relations, NSW Aboriginal Land Council
- Mr Stephen Wright, Registrar, Office of the Registrar, Aboriginal Land Rights Act 1983 (NSW)

Mr Wright tendered the following document:

- Aboriginal land claim statistics from 1983-2016

The evidence concluded and the witnesses withdrew.

The following witness was sworn and examined:

- Mr Nathan Moran, Chief Executive, Metropolitan Local Aboriginal Land Council

The evidence concluded and the witness withdrew.

The following witnesses were sworn and examined:

- Ms Yvette Andrews, Strategic Community Consultation Manager, Green Square Redevelopment, City of Sydney
- Ms Samantha Urquhart, Property Manager, Public Domain and Corporate Property, City of Sydney

The evidence concluded and the witnesses withdrew.

The chair noted that members of Parliament swear an oath to their office, and therefore do not need to be sworn prior to giving evidence before a committee. The following witnesses were sworn and examined:

- The Hon Niall Blair MLC, Minister for Primary Industries, Land and Water
- Ms Alison Stone, Deputy Director General, Department of Industry – Lands
- Mr David Clarke, Group Director, Governance and Strategy, Department of Industry – Lands
- Mr David McPherson, Group Director Regional Services, Department of Industry – Lands

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Ms Donna Rygate, Chief Executive, Local Government NSW
- Mr Shaun McBride, Senior Policy Manager, Local Government NSW

The evidence concluded and the witnesses withdrew.

The public and media withdrew.

5.7 Tendered document

Resolved, on the motion of Mr Veitch: That the committee accept and publish the following document tendered during the public hearing:

- Aboriginal land claim statistics from 1983-2016, tendered by Mr Stephen Wright, Registrar, Office of the Registrar, Aboriginal Land Rights Act 1983 (NSW).

6. Adjournment

The committee adjourned at 4.48 pm, until 10.30 am, Monday 1 August 2016, Shoalhaven Entertainment Centre (*public hearing*).

Samuel Griffith

Clerk to the Committee

Minutes no. 29

Monday 1 August 2016

General Purpose Standing Committee No 6

The Gallery Room, Shoalhaven Entertainment Centre, at 10.30 am

1. Members present

Mr Green, *Chair*

Mr Amato, *Deputy Chair*

Mr Farlow

Mr Primrose

Mr Shoebridge

Mr Veitch

2. Apologies

Ms Cusack

3. Inquiry into Crown land

3.1 Public hearing

Witnesses, the public and media were admitted.

The Chair made an opening statement regarding the broadcasting of proceedings and other matters.

The following witnesses were sworn and examined:

- Mr Russ Pigg, General Manager, Shoalhaven City Council, Illawarra Pilot Joint Organisation
- Mr Peter Coyte, Manager Property & Recreation, Wollongong City Council, Illawarra Pilot Joint Organisation
- Ms Lee Furness, Director Corporate Policy, Shellharbour City Council, Illawarra Pilot Joint Organisation

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Ms Gabrielle Cusack, Executive Officer, Canberra Region Joint Organisation
- Mr Rob Addison, Property Manager, Eurobodalla Shire Council, Canberra Region Joint Organisation
- Mr Peter Smith, Director Environment Services, Snowy Monaro Regional Council, Canberra Region Joint Organisation
- Mr Tim Geyer, Manager Parks & Gardens, Queanbeyan-Palerang Regional Council, Canberra Region Joint Organisation

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Mr Greg Peterson, Chief Executive Officer, Nowra Local Aboriginal Land Council
- Uncle Sonny Simms, Community Elder

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Mr Mark Corrigan, Save Collingwood Beach
- Mr Garry Kelson, Huskisson Woollamia Community Voice
- Ms Frances Bray PSM, President, Lake Woollumboola Protection Association Inc

Ms Bray tendered the following document:

- Map of Shoalhaven LEP Land use zones 2014

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Mr Bob Pullinger, Coordinator, Collingwood Beach Preservation Group
- Ms Dawn Thompson, Member of Executive Committee, Collingwood Beach Preservation Group
- Mr Noel Rosskelly, Member of Executive Committee, Collingwood Beach Preservation Group
- Mr Tony Emery, Director, Soilco Pty Limited

Mr Pullinger tendered the following document:

- Photographs of before and after vegetation hot spots
- Sand dune flyer
- Vincentia Ratepayers and Residents Association newsletter
- Deputation to Council dated 19 July 2016
- Minutes of Strategy and Assets committee dated 14 June 2016
- Collingwood Beach Preservation Group amendments to dune vegetation plan

Mr Emery tendered the following document:

- Application form, maps and fact sheet on Crown roads

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Ms Louise Webb, Committee member, Stop Arms Fairs In Eurobodalla
- Mr Jim Bright, Committee member, Stop Arms Fairs In Eurobodalla

Mr Bright tendered the following documents:

- Local Government tendering process
- Local Government Act 1993, Section 55
- Tendering guidelines for NSW Local Government
- Report to ordinary meeting of Eurobodalla Council dated 8 December 2015
- Emails
- Crown lands leasing and licensing factsheet
- Department of Primary Industries Trust handbook
- Huntfest cover letter to Eurobodalla Shire Council dated 27 August 2015.

Ms Webb tendered the following document:

- Legal advice from Environment Defenders Office dated 21 May 2015.

The evidence concluded and the witnesses withdrew.

3.2 Tendered documents

Resolved on the motion of Mr Veitch: That the committee accept and publish the following documents:

- Map of Shoalhaven LEP Land use zones 2014, tendered by Ms Frances Bray PSM, President, Lake Woollumbola Protection Association Inc
- Photographs of before and after vegetation hot spots, tendered by Mr Bob Pullinger, Coordinator, Collingwood Beach Preservation Group
- Sand dune flyer, tendered by Mr Bob Pullinger, Coordinator, Collingwood Beach Preservation Group
- Vincentia Ratepayers and Residents Association newsletter, tendered by Mr Bob Pullinger, Coordinator, Collingwood Beach Preservation Group
- Deputation to Council dated 19 July 2016, tendered by Mr Bob Pullinger, Coordinator, Collingwood Beach Preservation Group
- Minutes of Strategy and Assets committee dated 14 June 2016, tendered by Mr Bob Pullinger, Coordinator, Collingwood Beach Preservation Group
- Collingwood Beach Preservation Group amendments to dune vegetation plan, tendered by Mr Bob Pullinger, Coordinator, Collingwood Beach Preservation Group
- Legal advice from Environment Defenders Office dated 21 May 2015, tendered by Ms Louise Webb, Committee member, Stop Arms Fairs In Eurobodalla
- Local Government tendering process, tendered by Mr Jim Bright, Committee member, Stop Arms Fairs In Eurobodalla
- Local Government Act 1993, Section 55, tendered by Mr Jim Bright, Committee member, Stop Arms Fairs In Eurobodalla
- Tendering guidelines for NSW Local Government, tendered by Mr Jim Bright, Committee member, Stop Arms Fairs In Eurobodalla
- Report to ordinary meeting of Eurobodalla Council dated 8 December 2015, tendered by Mr Jim Bright, Committee member, Stop Arms Fairs In Eurobodalla
- Crown lands leasing and licensing factsheet, tendered by Mr Jim Bright, Committee member, Stop Arms Fairs In Eurobodalla
- Department of Primary Industries Trust handbook, tendered by Mr Jim Bright, Committee member, Stop Arms Fairs In Eurobodalla

- Huntfest cover letter to Eurobodalla Shire Council dated 27 August 2015, tendered by Mr Jim Bright, Committee member, Stop Arms Fairs In Eurobodalla.

Resolved on the motion of Mr Veitch: That the committee accept and keep confidential the following document:

- Application form, maps and fact sheet on Crown roads, tendered by Mr Tony Emery, Director, Soilco Pty Limited.
- Emails tendered by Mr Jim Bright, Committee member, Stop Arms Fairs In Eurobodalla.

4. **Adjournment**

The committee adjourned at 3.30 pm until 10.30 am, Tuesday 2 August 2016, Dubbo RSL Club (*public hearing*).

Samuel Griffith

Clerk to the Committee

Minutes no. 30

Tuesday 2 August 2016

General Purpose Standing Committee No. 6

Starlite Rooms, Dubbo RSL, at 10.30 am

1. **Members present**

Mr Green, *Chair*

Mr Amato, *Deputy Chair*

Ms Cusack

Mr Farlow

Mr Shoebridge

Mr Veitch

2. **Apologies**

Mr Primrose

3. **Inquiry into Crown land**

3.1 Transcript 29 July 2016

Resolved on the motion of Mr Veitch: That members have until 11.00 am Friday 5 August to submit supplementary questions to the secretariat for witnesses who appeared on 29 July 2016.

3.2 Public hearing

Witnesses, the public and media were admitted.

The Chair made an opening statement regarding the broadcasting of proceedings and other matters.

The following witnesses were sworn and examined:

- Cr Bill McAnally, Chair, Orana Regional Organisation of Councils (OROC) and Mayor, Narromine Shire Council
- Mr Ashley Wielinga, General Manager, Warren Shire Council

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Ms Jenny Bennett, Executive Officer, Central NSW Councils (CENTROC)
- Ms Michelle Catlin, Manager Administration and Governance, Orange City Council

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Mr Darren Toomey, Chief Executive Officer, Dubbo Local Aboriginal Land Council
- Mr Stephen Ryan, Member, Dubbo Local Aboriginal Land Council

Mr Toomey tendered the following document:

- List of land claims in Dubbo region

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Mr Hamish Thompson, President, Combined Action to Retain Routes for Travelling Stock Group
- Mr Ray Penfold, Member, Combined Action to Retain Routes for Travelling Stock Group
- Ms Ruth Penfold, Member, Combined Action to Retain Routes for Travelling Stock Group
- Mr Philip Dartnell, Consultant, Combined Action to Retain Routes for Travelling Stock Group

Mr Dartnell tendered the following documents:

- CARRTS submission to Draft 'NSW Travelling Stock Reserves State Planning Framework 2016-19'

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Ms Bev Smiles, Secretary, Central West Environment Council
- Ms Cilla Kincross, President, Central West Environment Council

Ms Smiles tendered the following document:

- Environmental values of the Peel Native Flora and Fauna Reserve, A Crown reserve: A case study

The evidence concluded and the witnesses withdrew.

The following witness was sworn and examined:

- Mr Nick King, President, Environmentally Concerned Citizens of Orange

The evidence concluded and the witness withdrew.

The following witness was sworn and examined:

- Mr Ross Harris, Land Utilisation Officer, Moree Plains Shire Council

The evidence concluded and the witness withdrew.

3.3 Tendered documents

Resolved, on the motion of Mr Shoebridge: That the committee accept and publish the following documents tendered during the public hearing:

- List of land claims in Dubbo region, tendered by Mr Darren Toomey, Dubbo Local Aboriginal Land Council
- CARRTS submission to Draft 'NSW Travelling Stock Reserves State Planning Framework 2016-19', tendered by Mr Philip Dartnell, Combined Action to Retain Routes for Travelling Stock Group
- Environmental values of the Peel Native Flora and Fauna Reserve, A Crown reserve: A case study, tendered by Ms Bev Smiles, Central West Environment Council.

4. Adjournment

The committee adjourned at 3.50 pm, until 9.30 am, Wednesday 3 August 2016, Ballina Island Motor Inn, (*public hearing*).

Samuel Griffith

Clerk to the Committee

Minutes no. 31

Wednesday 3 August 2016

General Purpose Standing Committee No. 6

Island Room, Ballina Island Motor Inn, Ballina at 10.10 am

1. Members present

Mr Green, *Chair*

Mr Amato, *Deputy Chair*

Ms Cusack

Mr Farlow

Mr Shoebridge

Mr Veitch

2. Apologies

Mr Primrose

3. Inquiry into Crown land

3.1 Public hearing

Witnesses, the public and media were admitted.

The Chair made an opening statement regarding the broadcasting of proceedings and other matters.

The following witnesses were sworn and examined:

- Ms Nela Turnbull, Legal Services Officer, Tweed Shire Council, Northern Rivers Regional Organisation of Councils
- Mr Ross Davies, Coordinator – Contracts and Property Services, Lismore City Council, Northern Rivers Regional Organisation of Councils
- Mr Mark Arnold, Executive Manager Corporate Management, Byron Shire Council, Northern Rivers Regional Organisation of Councils
- Mr Paul Hickey, General Manager, Ballina Shire Council, Northern Rivers Regional Organisation of Councils
- Mr Andrew Leach, Manager Asset Planning, Richmond Valley Council, Northern Rivers Regional Organisation of Councils
- Mr Marcus Schintler, Manager Corporate Services (Governance), Kyogle Council, Northern Rivers Regional Organisation of Councils

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Ms Leweena Williams, Chief Executive Officer, Tweed Byron Local Aboriginal Land Council
- Mr David Brown, Chief Executive Officer, Jali Local Aboriginal Land Council.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Mr John Dunn, President, Brunswick Heads Progress Association
- Ms Leone Bolt, Member, Brunswick Heads Progress Association
- Mr Sean O'Mearas, Member, Brunswick Heads Progress Association

The evidence concluded and the witnesses withdrew.

The following witness was sworn and examined:

- Dr Lynette Walker, Secretary, Ballina Environment Society

Dr Walker tendered the following documents:

- Two maps and timeline of events regarding Lake Ainsworth
- USB containing documents obtained from a GIPA request

The evidence concluded and the witness withdrew.

The following witnesses were sworn and examined:

- Mr Craig Zerk, Member, Ballina Chamber of Commerce and Port Ballina Taskforce
- Mr Ray Karam, Member, Ballina Chamber of Commerce and Port Ballina Taskforce

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Mr Steve Edmonds, Chief Executive Officer, NSW Crown Lands Holiday Parks Trust
- Mr Brad Shiels, Executive Manager, NSW Crown Lands Holiday Parks Trust

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Ms Maria Matthes, Member, Friends of Koala Inc.

The evidence concluded and the witness withdrew.

3.2 Tendered documents

Resolved, on the motion of Mr Shoebridge: That the committee accept and publish the following documents tendered during the public hearing:

- Two maps and timeline of events regarding Lake Ainsworth, tendered by Dr Lynette Walker, Ballina Environment Society

Resolved, on the motion of Mr Veitch: That the committee accept and keep confidential the following document tendered during the public hearing:

- USB containing documents obtained from a GIPA request, tendered by Dr Lynette Walker, Ballina Environment Society.

4. Adjournment

The committee adjourned at 3.20 pm, until 10.00 am, Monday 8 August 2016 (*public hearing in Newcastle*).

Samuel Griffith

Clerk to the Committee

Minutes no. 32

Monday 8 August 2016

General Purpose Standing Committee No. 6

Hunter Room, Newcastle City Hall, Newcastle, at 10.15 am

1. Members presentMr Green, *Chair*Mr Amato, *Deputy Chair*

Ms Cusack

Mr Farlow

Mr Primrose (until 12.05 pm)

Mr Shoebridge

Mr Veitch (until 12.05 pm)

2. Apologies

Mr Primrose (from 12.05 pm)

Mr Veitch (from 12.05 pm)

3. Inquiry into Crown land**3.1 Submissions**

The committee noted that the following submissions were published by the committee clerk under the authorisation of the resolution appointing the committee: submission nos. 134-189, 191-193, 195-200, 202, 204-223 and 225-263.

3.2 Public hearing - Newcastle

Witnesses, the public and media were admitted.

The Chair made an opening statement regarding the broadcasting of proceedings and other matters.

The following witnesses were sworn and examined:

- Mr Roger Stephan, Chief Executive Officer, Strategic Services Australia Ltd (Hunter Joint Organisation of Councils)
- Mr Craig Deasey, General Manager, Dungog Shire Council

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Mr Gordon Laffan, Chief Executive Officer, Stockton Bowling Club Co-op
- Ms Fiona Britten, Convenor, Stockton Community Forum
- Mr Kim Ostinga, President, Friends of King Edward Park
- Dr John Lewer, Vice President, Friends of King Edward Park
- Ms Margaret Ostinga, Member, Friends of King Edward Park

Ms Ostinga tendered the following document:

- Documents obtained from a GIPA request regarding public access to King Edward Park

Ms Britten tendered the following document:

- Background paper to 147 Fullerton Street, Stockton, Demise of a community and commercial asset on Crown land 2012-2016.

The evidence concluded and the witnesses withdrew.

The public hearing concluded at 12.05 pm.

3.3 Public hearing – Gosford

Witnesses, the public and media were admitted at 2.35 pm.

The Chair made an opening statement regarding the broadcasting of proceedings and other matters.

The following witnesses were sworn and examined:

- Mr Sean Gordon, Chief Executive Officer, Darkinjung Local Aboriginal Land Council
- Ms Lynne Hamilton, Planning and Development Manager, Darkinjung Local Aboriginal Land Council

Mr Gordon tendered the following documents:

- Sustainable Lands Strategy
- 2016-2019 Community Land Business Plan
- Discussion paper: The New South Wales Aboriginal Land Claim Process, September 2013, prepared by ADW Johnson Pty Limited
- Newspaper article 'Land Lease Scandal', The Abo Call.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Mr David Abrams, Member Gosford Waterfront Alliance
- Ms Sue Chidgey, Member, Save Central Coast Reserves

The evidence concluded and the witnesses withdrew.

3.4 Tendered documents

Resolved, on the motion of Mr Shoebridge: That the committee accept and publish the following tendered documents:

- Background paper to 147 Fullerton Street, Stockton, Demise of a community and commercial asset on Crown land 2012-2016, tendered by Ms Fiona Britten, Convenor, Stockton Community Forum
- Sustainable Lands Strategy, tendered by Mr Sean Gordon, Darkinjung Local Aboriginal Land Council
- 2016-2019 Community Land Business Plan, tendered by Mr Sean Gordon, Darkinjung Local Aboriginal Land Council
- Discussion paper: The New South Wales Aboriginal Land Claim Process, September 2013, prepared by ADW Johnson Pty Limited, tendered by Mr Sean Gordon, Darkinjung Local Aboriginal Land Council
- Newspaper article 'Land Lease Scandal', The Abo Call, tendered by Mr Sean Gordon, Darkinjung Local Aboriginal Land Council.

Resolved, on the motion of Ms Cusack: That the committee accept and keep confidential the following tendered documents:

- Documents obtained from GIPA Act regarding public access to King Edward Park, tendered by Ms Margaret Ostinga, Friends of King Edward Park.

4. Adjournment

The committee adjourned at 4.00 pm, until 9.45 am, Monday 15 August 2016, Parliament House (*public hearing*).

Samuel Griffith
Clerk to the Committee

Minutes no. 33

Monday 15 August 2016

General Purpose Standing Committee No 6

Macquarie Room, Parliament House, Sydney at 9.45 am

1. Members presentMr Green, *Chair*Mr Khan (*substituting for Mr Amato*)

Ms Cusack

Mr Farlow

Mr Primrose

Mr Shoebridge

Mr Veitch

2. Apologies

Mr Amato

3. Previous minutes

Resolved, on the motion of Ms Cusack: That draft minutes nos 28, 29, 30, 31, and 32 be confirmed.

4. Correspondence

The committee noted the following items of correspondence:

Received

- 27 July 2016 – Letter from anonymous to committee, addressing Aboriginal land claim legislative requirements
- 9 August 2016 – Email from Ms Alison McLaren, Senior Manager, Government and Industry Relations, Urban Growth NSW to secretariat, declining invitation to attend hearing on 15 August 2016.
- 10 August 2016 – Email from Ms Sarah Strang, Senior Solicitor, Property NSW, to secretariat, declining invitation to attend hearing on 15 August 2016.

5. Inquiry into Crown land in New South Wales**5.1 Public submissions**

Resolved, on the motion of Mr Veitch: That the committee publish the following submissions: 264-304, 306-310 and 312-348 and supplementary submission nos. 139a, 265a and 312a.

5.2 Partially confidential submissions

Resolved, on the motion of Mr Farlow: That the committee keep the following information confidential, as per the request of the author: names and/or identifying information in submission nos 198, 212, 220, 233, 238, 243, 248, 250, 260, 268, 277, 280, 287, 290, 292, 295, 297, 308, 318, 323, 327, 328, 330, 331, 333, 339, 340 and 344.

5.3 Confidential submissions

Resolved, on the motion of Ms Cusack: That the committee keep submission nos 190, 194, 201, 203, 224 305 and 311 confidential, as per the request of the author.

5.4 Pro form submissions

The committee noted that it had received two types of pro forma submissions from inquiry participants which the secretariat has labelled pro forma A and B. Pro forma A has 28 responses and pro forma B has 12 responses.

Resolved, on the motion of Ms Cusack: That the committee publish one copy of each pro forma on its website, noting the number of copies that have been received.

5.5 Answers to questions on notice

Resolved, on the motion of Ms Cusack: That the committee publish answers to questions on notice from Mr Mark Corrigan, Save Collingwood Beach, received 5 August 2016.

6. Public hearing

Witnesses, the public and media were admitted.

The Chair made an opening statement regarding the broadcasting of proceedings and other matters.

The following witness was sworn and examined:

- Mr Michael Carapiet, Former Chairman, Crown Lands Review Steering Committee

The evidence concluded and the witness withdrew.

The following witness was sworn and examined:

- Mr Bruce White, Sydney Branch, NSW Apiarists Association

The evidence concluded and the witness withdrew.

The following witnesses were sworn and examined:

- Mr David Peters, President, Agricultural Societies Council of NSW
- Mr Peter Gooch, Vice President, Agricultural Societies Council of NSW

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Mr Don Barton, President, NSW Council of Freshwater Anglers
- Mr Malcolm Poole, Member, Recreational Fishing Alliance of NSW and Member, NSW Angler Access Reserve Trust

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Ms Kilty O'Brien, Convenor, Save Bondi Pavilion
- Mr Peter Winkler, Member, Save Bondi Pavilion
- Ms Lesley Scott, Co-convenor, Friends of Trumper Park

Ms O'Brien tendered the following document:

- Bondi Pavilion Commercial Review, prepared for Waverly Council, February 2015

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Dr Oisín Sweeney, Chair, Jervis Bay Regional Alliance
- Mrs Suzette Meade, President, North Parramatta Residents Action Group
- Mr Jon Hillman, Vice President, North Parramatta Residents Action Group

Mr Hillman tendered the following document:

- 'Appeal to the Federal Environment Department to reject the LEDA's Destructive Plan for Airport Reserve, Milperra' *The Bushland Bulletin*, August 2016

Ms Meade tendered the following document:

- Stakeholder and community Consultation Outcomes report, Western Sydney Stadium, NSW Infrastructure and Venues NSW

Dr Sweeney tendered the following documents:

- Nature based tourism to NSW year ending December 2015 factsheet
- Attachments regarding Collingwood Beach

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Ms Emma Brooke Maher, Spokesperson, Crown Land Our Land
- Mrs Cheryl Borsak, Team Leader and Chair, Crown Land Our Land
- Mr John Owens, Private individual

Mr Owens tendered the following documents:

- Various correspondence concerning Talus Reserve, Willoughby
- Department of Primary Industries – Lands, Trust Handbook

Ms Brooks-Maher tendered the following document:

- Key recommendations and summary of key points

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Ms Kate Smolski, CEO, Nature Conservation Council of NSW
- Ms Cerin Loane, Policy and Research Coordinator, Nature Conservation Council of NSW
- Mr Kevin Evans, CEO, National Parks Association of NSW

Mr Evans tendered the following documents:

- National Parks Association submission to draft NSW travelling stock reserves state draft framework, December 2015
- National Parks Association submission to Crown Land legislation White Paper and Crown Lands Management Review, 30 June 2014
- 'Estimating the value of ecosystem services provided by travelling stock routes: A pilot study of selected sites in NSW', Final report 2012

The evidence concluded and the witnesses withdrew.

Mr Shoebridge left the meeting at 3.20 pm.

The following witnesses were sworn and examined:

- Mr Richard Green, Chairperson, United Land Councils
- Mr Nicholas Peterson, Strategy and Legals Executive, United Land Councils
- Mr Hussein Faraj, Chief Executive Officer, United Land Councils
- Mr Michael Anderson, Deputy Chair, United Land Councils

Mr Shoebridge re-joined the meeting at 4.00 pm.

Mr Peterson tendered the following document:

- Master settlement agreement templates for global full and final settlement of Aboriginal Land rights in NSW

Mr Anderson tendered the following documents:

- 'In sad but loving memory', Aboriginal burials and cemeteries of the last 200 years in NSW, report and information booklet
- About us information booklet
- Yamba port and integrated rail network development summary report and proposal
- United Fris Peoples Syndications project portfolio

The evidence concluded and the witnesses withdrew.

The Chair noted that Members of Parliament swear an oath to their office, and therefore do not need to be sworn prior to giving evidence before a committee.

- The Hon Niall Blair MLC, Minister for Primary Industries, Land and Water was admitted and examined.

The following witnesses were examined on their former oath:

- Ms Alison Stone, Deputy Director General, Department of Industry – Lands
- Mr David Clarke, Group Director, Governance and Strategy, Department of Industry – Lands
- Mr David McPherson, Group Director Regional Services, Department of Industry – Lands

The evidence concluded and the witnesses withdrew.

The public and media withdrew.

6.1 Tendered documents

Resolved, on the motion of Ms Cusack: That the committee accept and keep confidential the following documents:

- Various correspondence concerning Talus Reserve, Willoughby, tendered by Mr John Owens, private individual
- Department of Primary Industries – Lands, Trust Handbook, tendered by Mr John Owens, private individual
- Master settlement agreement templates for global full and final settlement of Aboriginal Land rights in NSW, tendered by Mr Nicholas Peterson, Strategy and Legals Executive, United Land Councils
- ‘In sad but loving memory’, Aboriginal burials and cemeteries of the last 200 years in NSW, report and information booklet, tendered by Mr Michael Anderson, Deputy Chair, United Land Councils, tendered by Mr Michael Anderson, Deputy Chair, United Land Councils
- About us information booklet, tendered by Mr Michael Anderson, Deputy Chair, United Land Councils
- Yamba port and integrated rail network development summary report and proposal, tendered by Mr Michael Anderson, Deputy Chair, United Land Councils
- United First Peoples Syndications project portfolio, tendered by Mr Michael Anderson, Deputy Chair, United Land Councils.

Resolved, on the motion of Mr Farlow: That the committee accept and publish the following documents:

- Bondi Pavilion Commercial Review, prepared for Waverly Council, February 2015, tendered by Ms Kilty O’Brien, Convenor, Save Bondi Pavilion
- ‘Appeal to the Federal Environment Department to reject the LEDA’s Destructive Plan for Airport Reserve, Milperra’ The Bushland Bulletin, August 2016, tendered by Mr Jon Hilman, Vice President, North Parramatta Residents Action Group
- Stakeholder and community Consultation Outcomes report, Western Sydney Stadium, NSW Infrastructure and Venues NSW, tendered by Ms Suzette Meade, President, North Parramatta Residents Action Group
- Nature based tourism to NSW year ending December 2015 factsheet, tendered by Dr Oisín Sweeney, Chair, Jervis Bay Regional Alliance
- Attachments regarding Collingwood Beach, tendered by Dr Oisín Sweeney, Chair, Jervis Bay Regional Alliance
- Key recommendations and summary of key points, tendered by Ms Emma Brooks-Maher, Spokesperson, Crown Land Our Land
- National Parks Association submission to draft NSW travelling stock reserves state draft framework, December 2015, tendered by Mr Kevin Owens, Chief Executive Officer, National Parks Association of NSW
- National Parks Association submission to Crown Land legislation White Paper and Crown Lands Management Review, 30 June 2014, tendered by Mr Kevin Owens, Chief Executive Officer, National Parks Association of NSW
- ‘Estimating the value of ecosystem services provided by travelling stock routes: A pilot study of selected sites in NSW’, Final report 2012, tendered by Mr Kevin Owens, Chief Executive Officer, National Parks Association of NSW.

7. Adjournment

The committee adjourned at 5.05 pm until Thursday 1 September 2016, Parliament House, (*Budget Estimates*).

Samuel Griffith

Clerk to the Committee

Draft minutes no. 39⁴¹⁹

Monday 10 October 2016

General Purpose Standing Committee No.6

Room 1254, Parliament House, at 9.32 am

1. Members present

Mr Green, *Chair*

Mr Amato, *Deputy Chair*

Ms Cusack

Mr Khan (substituting for Mrs Taylor)

Mr Primrose

Mr Shoebridge (from 9.33 am)

Mr Veitch

2. Previous minutes

Resolved, on the motion of Mr Amato: That minutes no 38 be confirmed.

3. Correspondence

The committee noted the following items of correspondence:

Received

- 18 August 2016 – Email from Mr Tony Cosgrove, Secretary, Pottsville Community Association, to committee, expressing concern regarding submission time frame
- 29 August 2016 – Letter from Dr Lynette Walker, Secretary, Ballina Environment Society to secretariat, correction and clarification following appearance 3 August 2016
- 6 September 2016 – Email from Mr Kim Ostringa, Friends of King Edward Park, to committee, expressing concerns arising from evidence by Minister Blair at hearing on 15 August 2016
- 7 September 2016 – Email from Mr John Owens, Crown Land Alliance to committee, expressing concerns arising from evidence by Minister Blair and Mr Carapiet at hearing on 15 August 2016
- 28 September 2016 – Email from Ms Kay Williams, Crown Land Our Land Gosford to committee, drawing attention to Crown land issues in the Gosford area.

Sent

- 30 September 2016 – Letter from Committee Director to Mr Jon Black, Managing Director, TAFE NSW, seeking further detail on their objection to publishing a tabled document for the budget estimates inquiry.

4. Inquiry into Crown land

4.1 Public submissions

The committee noted the following submissions were published by the committee clerk under the authorisation of the resolution appointing the committee: submission nos. 273, 349 to 355 and supplementary submission 294a.

⁴¹⁹ Minutes nos. 34 to 38 relate to General Purpose Standing Committee No. 6's inquiry into Budget Estimates 2016-2017.

Resolved, on the motion of Ms Cusack: That the committee authorise the publication of supplementary submission no. 350a.

4.2 Confidential submission

Resolved, on the motion of Mr Amato: That the committee keep submission no. 231 confidential, as per request of the author.

4.3 Answers to question on notice

The committee noted the following answers to questions on notice and supplementary questions were published by the committee clerk under the authorisation of the resolution appointing the committee:

- answers to questions on notice and supplementary questions from Mr Peter Coyte, Manager Property and Recreation, Wollongong City Council received 11 August 2016
- answers to questions on notice and supplementary questions from Mr Ross Harris, Land Utilisation Officer, Moree Palins Shire Council received 16 August 2016
- answers to questions on notice from Mr Michael Carapiet, former Chairman, Crown Lands Review Steering Committee received 18 August 2016
- answers to questions on notice and supplementary from Mr Marcus Schintler, Manager Corporate Services (Governance), Kyogle Council received 22 August 2016
- answers to questions on notice from Ms Frances Bray PSM, President, Wollumboola Protection Association Inc received 22 August 2016
- answer to a question on notice from Minister for Lands and Water received 23 August 2016
- answers to questions on notice and supplementary questions from Mr Paul Hickey, General Manager, Ballina Shire Council received 24 August 2016
- answers to questions on notice from Ms Heather Irwin, President, Stop Arms Fair in Eurobodalla received 25 August 2016
- answers to supplementary questions from Canberra Region Joint Organisation received 25 August 2016
- answers to questions on notice from Mr Hamish Thompson, President, Combined Action to Retain Routes for Travelling Stock Group received 28 August 2016
- answers to questions on notice from Minister for Lands and Water received 29 August 2016
- answers to question on notice from Local Government NSW received 29 August 2016
- answers to questions on notice and supplementary questions from Mr Rod Addison, Property Manager, Eurobodalla Shire Council received 29 August 2016
- answers to questions on notice received from Mr Craig Deasey, General Manager, Dungog Shire Council received 29 August 2016
- answers to questions on notice from Mr Stephen Wright, Registrar, Office of the Registrar *Aboriginal Land Rights Act 1983* received 30 August 2016
- answers to questions on notice from Mr John Stuchbery, Chair, Collingwood Beach Preservation Group received 30 August 2016
- answers to questions on notice from Ms Patricia Warren, Secretary, Brunswick Heads Progress Association Inc., received 30 August 2016
- answers to questions on notice from Mr Richard Green, Chair, United Lands Council received 31 August 2016
- answers to questions on notice from Mr Russ Pigg, General Manager, Shoalhaven City Council received 31 August 2016
- answers to questions on notice from Mr Andrew Leach, Manager Asset Planning, Richmond Valley Council received 1 September 2016
- answers to questions on notice from Ms Michelle Catlin, Manager Administration and Governance, Orange City Council received 1 September 2016
- answers to questions on notice received from Mr Steve Edmonds, Chief Executive Officer, NSW Crown Holiday Parks Trust received 2 September 2016

- answers to questions on notice and supplementary questions from Mr Mark Arnold, Executive Manager, Corporate Management, Byron Shire Council received 2 September 2016
- answers to questions on notice from Ms Maria Matthes, Member, Friends of the Koala received 2 September 2016
- answers to questions on notice from Mr Don Barton, President, NSW Council of Freshwater Angler's received 2 September 2016
- answers to questions on notice from Dr John Lewer, Member, Friends of King Edward Park received 6 September 2016
- answers to questions on notice from Ms Sue Chidgery, Member, Save Central Coast Reserves received 6 September 2016
- answers to questions on notice from Dr Oisin Sweeney, Chair, Jervis Bay Regional Alliance received 8 September 2016
- answers to questions on notice from Ms Emma Brooks Maher, Secretary, Crown Land Our Land received 8 September 2016
- answers to questions on notice from Cr Bill West, Chair, Central NSW Councils received 8 September 2016
- answers to questions on notice from Mr David Peters, President, Agricultural Societies Council of NSW received 14 September 2016
- answers to question on notice from Minister for Lands and Water received 7 October 2016.

Resolved, on the motion of Mr Amato: That the committee keep the following answers to questions on notice confidential due to sensitive information or adverse mention:

- case study in answers to questions on notice from Mr Hamish Thompson, President, Combined Action to Retain Routes for Travelling Stock Group received 28 August 2016
- answers to questions on notice from Mr Gordon Laffan, Chief Executive Officer, Stockton Bowling Club Co-op received 30 August 2016.

4.4 Consideration of Chair's draft report

The Chair submitted his draft report entitled *Crown land in New South Wales*, which, having been previously circulated, was taken as being read.

Mr Shoebridge moved: That the following new paragraph and recommendation be inserted after paragraph 1.36:

'Given the importance of the new Crown land legislation the committee believes that it is essential that an exposure draft of the proposed legislation be made available well in advance of any Parliamentary debate. The details of the wording of proposed new statutory provisions and be crucial to the overall success or failure of the reforms. We have seen first-hand how competent an informed the public and interested stakeholders are when it comes to the nuances and specific of the current Crown land legislation and their considered input in reviewing a consultation draft would be invaluable.

Recommendation x

'That a consultation draft of the proposed Crown land legislative reforms be provided for a minimum three weeks public consultation before the Bill is presented to parliament.'

Question put.

The committee divided.

Ayes: Mr Primrose, Mr Shoebridge, Mr Veitch.

Noes: Mr Amato, Ms Cusack, Mr Green, Mr Khan.

Question resolved in the negative.

Mr Shoebridge moved: That paragraph 2.83 be amended by omitting 'The committee is generally supportive' and inserting instead 'The committee notes'.

Question put.

The committee divided.

Ayes: Mr Green, Mr Primrose, Mr Shoebridge, Mr Veitch.

Noes: Mr Amato, Ms Cusack, Mr Khan.

Question resolved in the affirmative.

Resolved on the motion of Mr Shoebridge: That paragraph 2.83 be amended by inserting at the end:

'The committee notes the very real concerns that while there are many very capable local councils that will protect land transferred to them as Local land, there are a minority of councils that are not as capable or community orientated. Given this, there is inadequate existing or proposed protections to ensure Crown land that is transferred to local councils will be protected in the public interest. If the proposal to transfer Crown land as Local land is to proceed, then additional protections to ensure the land is retained as public in the public interest should be considered in the legislative reforms.'

Resolved, on the motion of Mr Shoebridge: That the following new recommendation be inserted after paragraph 2.83:

'Recommendation x

That the NSW Government consider additional legislative protections to ensure Local land is retained as public land and managed in the public interest.'

Resolved on of Mr Khan: That paragraph 2.86 and Recommendation 3 be amended by inserting 'equitable access to' before 'funds from any money'.

Resolved, on the motion of Mr Shoebridge: That paragraph 2.105 be amended by

- a) omitting 'the same community consultation methods currently in place' and inserting instead 'consultation methods based on provisions',
- b) inserting the following sentence at the end 'Given Crown land is not one-size-fits-all due to the diversity in the size, parcels and uses of Crown land, a different approach and level of scrutiny of dealing with these parcels is required. The committee considers model plans of management for different classes of land would be beneficial.'

Resolved, on the motion of Mr Shoebridge: That Recommendation 5 be amended by omitting 'the same community consultation methods for plans of management that currently operate in the *Local Government Act 1993*' and inserting instead 'consultation methods based upon plans of management that currently operate in the *Local Government Act 1993*, including model plans of management for different classes of land'.

Resolved, on the motion of Mr Shoebridge: That the following new paragraph be inserted after paragraph 4.18:

'The committee believes that any stocktake of Crown land must include a review of its local, regional and state environmental significance. The committee received numerous submissions from stakeholders that identified how important Crown land is as an environmental asset in New South Wales. Whether it was the increasingly rare vegetation retained along travelling stock routes that has been protected from clearing for agriculture or precious coastal reserves that have been protected from development, Crown land holds some of the most important environmental assets in the State.'

Resolved on the motion of Mr Shoebridge: That the following new recommendation be inserted after paragraph 4.19:

‘Recommendation x

That the NSW Government, when implementing the stocktake of Crown land in New South Wales at recommendation x, must consider an audit of its ecological value including its local, regional and state environmental significance.’

Resolved, on the motion of Mr Shoebridge: That paragraph 4.67 be amended by inserting at the end: ‘We will review the information received from the department and may hold a further inquiry if considered necessary.’

Resolved on the motion of Mr Shoebridge: That paragraph 5.35 be amended by inserting at the end: ‘The committee has concerns that the social and environmental values of many parcels of land set aside as unmade Crown roads are not being adequately assessed given the very short public consultation period, the lack of adequate resources in the Department and the narrow scope of the existing public notification.’

Resolved, on the motion of Mr Khan: That paragraph 5.36 be amended by omitting ‘from 28 to 60 days’.

Resolved, on the motion of Mr Khan: That recommendation 12 be amended by omitting ‘to 60 days’.

Resolved, on the motion of Mr Shoebridge: That recommendation 12 be amended by inserting at the end: ‘and consider methods to widen the scope of public notification so that a broader group of interested stakeholders are made aware of proposed land sales’.

Mr Shoebridge moved: That paragraph 5.37 be amended by omitting ‘is generally supportive of’ and inserting instead ‘notes the proposal that will see’.

Question put.

The committee divided.

Ayes: Mr Primrose, Mr Shoebridge, Mr Veitch.

Noes: Mr Amato, Ms Cusack, Mr Green, Mr Khan.

Question resolved in the negative.

Resolved, on the motion of Mr Shoebridge: That paragraph 5.59 be amended by inserting at the end: ‘We note the very clear evidence of the economic, social and environmental importance of the travelling stock route network and its importance to the future of this State.’

Resolved, on the motion of Mr Shoebridge: That paragraph 5.60 be amended by inserting at the end of the last sentence: ‘, and the important environmental and cultural values of the travelling stock route network’.

Resolved, on the motion of Mr Shoebridge: That the following new committee comment and recommendation be inserted after paragraph 6.12:

‘Committee comment

The committee recognises the fact that prior to 1788 all of New South Wales was Aboriginal land. We also recognise the unique and continuing relationship that Aboriginal people have to the land across New South Wales. We accept the representations that were made to the committee on behalf of the NSW Aboriginal Land Council that the Crown Lands Act should therefore recognise Aboriginal custodianship.

Recommendation x

That the NSW Government ensure the new Crown land legislation recognises the fact of prior and continuing Aboriginal custodianship of Crown land and operates together with the *Aboriginal Land Rights Act 1983*.’

Mr Shoebridge moved: That the following new paragraph and recommendation be inserted after paragraph 6.56:

‘It is evident that insufficient resources have been applied by the NSW Government to allow for the efficient and timely assessment of Aboriginal land claims. This is not a new problem that can be slated home to the existing government, or indeed any one government over the past three decades. It is the result of more than 30 years of inattention and neglect. One very important part of the solution therefore is for the NSW Government to adequately resource the department to efficiently and properly address the backlog.’

Recommendation x

That the NSW Government adequately resource the Department of Industry – Lands to efficiently and properly address the unacceptable backlog of Aboriginal land claims.’

Question put.

The committee divided.

Ayes: Mr Shoebridge.

Noes: Mr Amato, Ms Cusack, Mr Green, Mr Khan, Mr Primrose, Mr Veitch.

Question resolved in the negative.

Resolved, on the motion of Mr Shoebridge: That paragraph 6.76 be amended by omitting ‘we believe zoning and planning policies’ and inserting instead ‘we note the evidence that zoning and planning policies’.

Resolved, on the motion of Ms Cusack: That paragraph 6.76 be amended by omitting the following sentence: ‘We therefore recommend that the NSW Government consider a process to unlock environmental and planning constraints on land granted under Aboriginal land claims to give custodianship and power to local Aboriginal land councils to determine how land is to be used for social, cultural or economic opportunities.’.

Resolved, on the motion of Mr Shoebridge: That the following paragraph be inserted after paragraph 6.76:

‘Where Local Aboriginal Land Councils can identify that their reasonable expectations for development are being hampered as a result of overt or tacit opposition from local councils that is not well founded in evidence, then we believe there is a proper role for the Minister for Planning to intervene. Local Aboriginal Land Councils, like all other land owners in New South Wales, deserve to have their planning proposals considered without discrimination and on their merits.’

Resolved, on the motion of Mr Shoebridge: That the following paragraph and recommendation be omitted:

‘6.77 The committee endorses the recommendation made by the Standing Committee on State Development in its report on Economic development in Aboriginal communities which is as follows: ‘That the Department of Planning and Environment review planning legislation to better accommodate the aspirations envisaged in the *Aboriginal Land Rights Act 1983*’ [FOOTNOTE: Standing Committee on State Development, NSW Legislative Council, *Economic development in Aboriginal communities* (2016), p 71.]. The committee acknowledges the difficulties posed by bureaucratic red tape in rezoning land granted under claim and the inability of land councils to successfully claim economically viable land. We believe a strategy for prioritising land under claim that is economically viable would be beneficial to land councils. This would allow land councils to prioritise and be granted land that was economically viable without environmental restriction thus giving them the opportunities needed to set them on the path to becoming economically sustainable and in turn supporting their communities. The committee therefore recommends that the NSW Government develop a whole of government strategy that prioritises claims for economically viable land.’

Recommendation 18

That the NSW Government develop a whole of government strategy to unlock environmental and planning constraints on land granted under Aboriginal land claims including consideration of an Aboriginal State Environmental Planning Policy.'

Resolved, on the motion of Mr Khan: That:

- a) the draft report, as amended, be the report of the committee and that the committee present the report to the House;
- b) the transcripts of evidence, submissions, tabled documents, answers to questions on notice and supplementary questions, and correspondence relating to the inquiry be tabled in the House with the report;
- c) upon tabling, all unpublished attachments to submissions be kept confidential by the committee;
- d) upon tabling, all unpublished transcripts of evidence, submissions, tabled documents, answers to questions on notice and supplementary questions, and correspondence relating to the inquiry, be published by the committee, except for those documents kept confidential by resolution of the committee;
- e) the committee secretariat correct any typographical, grammatical and formatting errors prior to tabling;
- f) the committee secretariat be authorised to update any committee comments where necessary to reflect changes to recommendations or new recommendations resolved by the committee;
- g) dissenting statements be provided to the secretariat within 24 hours after receipt of the draft minutes of the meeting;
- h) the report be tabled on 13 October 2016.

Resolved, on the motion of Mr Veitch: That the committee thank the secretariat for its work on the inquiry, including on the report.

5. Adjournment

The committee adjourned at 10.48 am, *sine die*.

Sam Griffith

Clerk to the Committee

Appendix 6 Dissenting statement

From Mr David Shoebridge MLC, The Greens

This report is the product of a respectful and consensus driven approach between the members on the Committee. As a member of the Greens I note my appreciation of the collaborative work of the Committee and I firmly support the direction of the report. There are however a number of aspects of the report that, despite our best collective endeavours, where we could not achieve consensus.

Given the importance of the new Crown land legislation I am firmly of the belief that it is essential that an exposure draft of the proposed Crown Lands legislative reforms be made available well in advance of any Parliamentary debate. This is because the details of the wording of proposed new statutory provisions will be crucial to the overall success or failure of the reforms.

This committee has seen first-hand how competent and informed the public and interested stakeholders are when it comes to the nuances and specifics of the current Crown land legislation. That is why their considered input in reviewing a consultation draft would be invaluable. To that end I moved for an additional recommendation in the report as follows:

“Recommendation: That a consultation draft of the proposed Crown land legislative reforms be provided for a minimum three weeks public consultation before the Bill is presented to parliament.”

Unfortunately this recommendation was not accepted. It remains a matter that I believe should be both included in the report and brought to the Minister’s attention in the reform process. Undoubtedly providing a consultation draft for stakeholders, political colleagues and the community more generally would be a show of good faith by the Minister and I would hope that he adopts this course of action.

While it may seem like a procedural issue, the future management of Crown land is a matter of extraordinary importance to the State of NSW. The committee received numerous submissions from stakeholders that identified how important Crown land is as a social and environmental asset in New South Wales. Whether it is the increasingly rare vegetation retained along travelling stock routes that has been protected from clearing for agriculture or precious coastal reserves that have been protected from development, Crown land holds some of the most important environmental assets in the State. This is why it is essential that we get the statutory regime right.

Any objective observer would acknowledge that the manner in which Aboriginal land claims are processed is woefully inadequate in this State. There are currently 29,840 outstanding Aboriginal land claims on the books.

It is self-evident that insufficient resources have been applied by the NSW Government to allow for the efficient and timely assessment of Aboriginal land claims. This is not a new problem that can be slated home to the existing government, or indeed any one government over the past three decades. It is the result of more than 30 years of inattention and neglect. One very important part of the solution therefore is for the NSW Government to adequately resource the department to efficiently and properly address the backlog. This is why I asked the committee to adopt the following recommendation:

‘Recommendation: That the NSW Government adequately resource the Department of Industry – Lands to efficiently and properly address the unacceptable backlog of Aboriginal land claims.’

It was unfortunate that this recommendation was not adopted or supported by a single other member of the committee. I hope that the clear injustice of the situation will motivate the government to address the situation, in this case by the provision of significant additional resources to the processing of Aboriginal land claims.